



भारत का राजपत्र The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 651.—बीमांकक अधिनियम, 2006 (2006 का 35) की धारा 12 की उप-धारा (2) के खंड (ख)(i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, वित्त मंत्रालय का प्रतिनिधित्व करने के लिए श्री मुकेश कुमार बंसल, भूतपूर्व, संयुक्त सचिव, वित्तीय सेवाएं विभाग के स्थान पर श्री प्रशांत कुमार गोयल, संयुक्त सचिव, वित्तीय सेवाएं विभाग को तत्काल प्रभाव से और अगले आदेशों तक भारतीय बीमांकक संस्थान परिषद के सदस्य के रूप में नामित करती है।

[फा. सं. ए-11011/04/2022-बीमा-I]]

अब्दुल गुफरान, अवर सचिव

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 9th April, 2024

S.O. 651.—In exercise of the powers conferred by clause (b) (i) of sub-section (2) of section 12 of the Actuaries Act, 2006 (35 of 2006) the Central Government hereby nominates Shri Parshant Kumar Goyal, Joint Secretary, Department of Financial Services as a member of the Disciplinary Committee constituted by the Council of the Institute of Actuaries of India *vice* Shri Mukesh Kumar Bansal, erstwhile, Joint Secretary, Department of Financial Services.

[F. No. A-11011/04/2022-Ins.I]

ABDUL GUFRAN, Under Secy.

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 652.—बीमांकक अधिनियम, 2006 (2006 का 35) की धारा 26 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री मुकेश कुमार बंसल, भूतपूर्व, संयुक्त सचिव, वित्तीय सेवाएं विभाग के स्थान पर तत्काल प्रभाव से और अगले आदेशों तक श्री प्रशांत कुमार गोयल, संयुक्त सचिव, वित्तीय सेवाएं विभाग को भारतीय बीमांकक संस्थान परिषद द्वारा गठित अनुशासनात्मक समिति के सदस्य के रूप में नामित करती है।

[फा. सं. A-11011/04/2022-Ins.I]

अब्दुल गुफरान, अवर सचिव

New Delhi, the 9th April, 2024

S.O. 652.—In exercise of the powers conferred by sub-section (1) of section 26 of the Actuaries Act, 2006 (35 of 2006) the Central Government hereby nominates Shri Parshant Kumar Goyal, Joint Secretary, Department of Financial Services as a member of the Disciplinary Committee constituted by the Council of the Institute of Actuaries of India *vice* Shri Mukesh Kumar Bansal, erstwhile, Joint Secretary, Department of Financial Services, with immediate effect and until further orders.

[F. No. A-11011/04/2022-Ins.I]

ABDUL GUFRAN, Under Secy.

कार्मिक, लोक शिकायत और पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 4 अप्रैल, 2024

का.आ. 653.—केंद्र सरकार, राजभाषा [संघ के शासकीय प्रयोजनों के लिए प्रयोग] नियमावली, 1976 (यथा संशोधित 1987, 2007 और 2011) के नियम 10 के उप-नियम (4) के अनुसरण में कार्मिक और प्रशिक्षण विभाग के अधीनस्थ कार्यालय, केन्द्रीय अन्वेषण ब्यूरो के अधीन निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी भाषा का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

1. भ्रष्टाचार निरोधक शाखा, बेंगलुरु
2. बैंक प्रतिभूति एवं धोखाधड़ी शाखा, बेंगलुरु

[फां. सं. ई-11017/1/2022-हिंदी]

एस.डी. शर्मा, संयुक्त सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**(Department of Personnel and Training)**

New Delhi, the 4th April, 2024

S.O. 653.—Central Government in pursuance of Sub-Rule (4) of Rule 10 of official languages [Use for official purpose of union] Rules, 1976 (as amended in 1987, 2007 and 2011) hereby notifies the following offices under the Central Bureau of Investigation, a subordinate office of Department of Personnel and Training whose more than 80 percent staff has acquired working knowledge of Hindi language:-

1. Anti Corruption Branch, Bengaluru
2. Banking Securities and Fraud Branch, Bengaluru

[F. No. E-11017/1/2022-Hindi]

S. D. SHARMA, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 654.—भारतीय पेट्रोलियम और उर्जा संस्थान अधिनियम 2017 के नियम 5(1) (ग) के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार श्री पी.के. जोशी, तत्कालीन निदेशक, एचपीसीएल और श्री एम.वी. अय्यर, तत्कालीन निदेशक, गेल (इंडिया) लिमिटेड के स्थान पर श्री कासरगोड सुरेश शेट्टी, निदेशक (मानव संसाधन), एचपीसीएल और श्री आयुष गुप्ता, निदेशक (मानव संसाधन), गेल (इंडिया) लिमिटेड को तत्काल प्रभाव से तीन वर्ष की अवधि अथवा अगले आदेश तक जो भी पहले हो, के लिए आईआईपीई के गवर्नर बोर्ड के सदस्य के रूप में एतद्वारा नामांकित करती है।

[फा. सं. सीए-31037/8/2019-सीए/एफपी-पीएनजी (ई-29041)]

कला, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 5th April, 2024

S.O. 654.—In exercise of the powers conferred under Rule 5(1) (c) of the Indian Institute of Petroleum and Energy Act 2017, the Central Government hereby nominates Shri Kasargod Suresh Shetty, Director (HR), HPCL and Shri Ayush Gupta, Director (HR), GAIL (India) Ltd. as Members on the Board of Governors of IPE with immediate effect for a period of three years or until further orders whichever is earlier, vice Shri P.K. Joshi, then Director, HPCL and Shri M.V. Iyer then Director GAIL (India) Ltd.

[F. No. CA-31037/8/2019-CA/FP-PNG (E-29041)]

KALA, Under Secy.

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 655.—भारत सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 4792(अ), दिनांक 29.10.2021 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में, मैसर्स रिलायंस इण्डस्ट्रीज लिमिटेड के दहेज मैनुफैक्चरिंग डिविजन (गुजरात) से नागोथाने मैनुफैक्चरिंग डिविजन (महाराष्ट्र) तक तरल ईथेन के परिवहन के लिए मैसर्स रिलायंस ईथेन पाइपलाइन्स लिमिटेड द्वारा मैसर्स रिलायंस इण्डस्ट्रीज लिमिटेड को समर्पित दहेज-नागोथाने ईथेन पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और, उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 14.12.2021 को अथवा उससे पूर्व उपलब्ध करा दी गई थीं;

और, पाइपलाइन बिछाने के संबंध में, जनता की ओर से कोई आक्षेप प्राप्त नहीं हुआ;

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है;

और, भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, भारत सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, भारत सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से भारत सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त, मैसर्स रिलायंस ईथेन पाइपलाइन्स लिमिटेड में निहित होगा।

अनुसूची				
मंडल/तहसील/तालुका : भिवंडी	जिला : ठाणे	राज्य : महाराष्ट्र		
गाँव का नाम	सर्वे सं/सब डिविजन सं	आर.ओ.यू. अर्जित करने के लिए क्षेत्रफल		
		हेक्टेयर	एयर	सि-एयर
1	2	3	4	5
1) दिघाशी	217 / 120 / 1	00	14	55
2) किरवली	25 / 15	00	04	77
	25 / 16	00	02	73
	25 / 17 / 1	00	04	15
3) लाप बुद्रुक	156 / 2	00	09	24
	51 / 4पै	00	40	00
4) दल्हेपाडा	30	00	03	00
5) अर्जुनली	5 / 1	00	02	43

[फा. सं. एल.-14014/130/2021-जी.पी.-II[ई-40086]

रामजीलाल मीना, अवर सचिव

New Delhi, the 5th April, 2024

S.O. 655.—Whereas by notification of Government of India in Ministry of Petroleum and Natural Gas, number S.O. 4792(E) dated 29-10-2021, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), Government of India declared its intention to acquire the Right of User in land, specified in the Schedule appended to that notification for the purpose of laying RIL's dedicated Dahej-Nagothane Ethane pipeline for transportation of Liquid Ethane from Dahej Manufacturing Division in Gujarat to Nagothane Manufacturing Division in Maharashtra of M/s Reliance Industries Limited (RIL) by M/s Reliance Ethane Pipelines Limited;

And whereas, the copies of the said Gazette notification were made available to the public on or before 14-12-2021;

And whereas no objections were received from the public to the laying of the pipeline;

And whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government of India;

And whereas, Government of India, after considering the said report and on being satisfied that the said land is required for laying the pipeline, have decided to acquire the Right of User therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, Government of India hereby declares that the Right of User in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Government of India hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in Government of India, vest on the date of publication of the declaration, in M/s Reliance Ethane Pipelines Limited, free from all encumbrances.

SCHEDULE				
Mandal/Tehsil/ Taluk: Bhiwandi	District : Thane	State: Maharashtra		
Name of Village	Survey No./Sub-Division No.	Area to be acquired for ROU		
		Hec.	Are	C-Are
1	2	3	4	5
1) Dighashi	217/120/1	00	14	55

2) Kiravali	25/15	00	04	77
	25/16	00	02	73
	25/17/1	00	04	15
3) Lap Budruk	156/2	00	09	24
	51/4P	00	40	00
4) Dalepada	30	00	03	00
5) Arjunali	5/1	00	02	43

[F. No. L-14014/130/2021-GP-II[E-40086]

RAMJI LAL MEENA, Under Secy.

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 656.—भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या **मौजा ईश्वरदा जलपाई के लिए 4971(ई) दिनांक 26/10/2023**, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गेल (इण्डिया) लिमिटेड द्वारा पश्चिम बंगाल राज्य में जगदीशपुर-हल्दिया – बोकारो- धामरा पाइपलाइन (जे एच बी दी पी एल) & स्पर पाइपलाइन के माध्यम से प्राकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को उपलब्ध करा दी गई थी;

और, सक्षम प्राधिकार ने, उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है;

और भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात और यह संतुष्ट हो जाने पर कि उक्त भूमि पाइपलाइनें बिछाने के लिए अपेक्षित है, उस में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, भारत सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइनें बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और भारत सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, निर्देश देती है कि पाइपलाइनें बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, भारत सरकार में निहित होने के बजाए, पाइपलाइनें बिछाने का प्रस्ताव करने वाली गेल (इण्डिया) लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुये, सभी विल्लंगमों से मुक्त, गेल (इण्डिया) लिमिटेड में निहित होगा।

जगदीशपुर-हल्दिया -बोकारो-धामरा पाइपलाइन और स्पर पाईप लाईन प्रोजेक्ट, 3 बी सेक्सन, पश्चिम बंगाल

अनुसूची

राज्य : पश्चिम बंगाल

जिला	ब्लॉक	मौजा	थाना नं.	नक्शा	सर्वे नं.	क्षेत्रफल		
						हेक्टेअर—आर—वर्ग मीटर		
1	2	3	4	5	6	7		
पूर्व मेदिनीपुर	सुताहता 2	ईश्वरदाहा जलपाई	53	एल. आर	35	00	00	13
					36	00	00	80
					48	00	04	80
					50	00	01	92

	51	00	02	27
	52	00	00	60
	54	00	00	27
	57	00	00	30
	234	00	00	71
	2053	00	00	20

[फा. सं. एल-14014/204/2022-जीपी-II(ई-44539)]

रामजीलाल मीना, अवर सचिव

New Delhi, the 5th April, 2024

S.O. 656.—Whereas by the notification of Government of India in Ministry of Petroleum and Natural Gas vide **4971(E) Dated 26/10/2023 for Mouza Iswardaha Jalpai**, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of Users in Land) Act, 1962 (50 to 1962) hereinafter referred to as the said Act, Government of India declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of natural gas through Jagadishpur-Haldia-Bokaro-Dhamra Pipeline (JHBDPL) & spur Pipeline, in the State of West Bengal by GAIL (India) Limited;

And, whereas copies of the said Gazette notification were made available to the public;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted his report to Government of India;

And whereas Government of India after considering the said report and on being satisfied that the said land is required for laying the pipelines, has decided to acquire the Right of User therein;

Now, therefore, in exercise of powers conferred by sub-section(1) of Section 6 of the said Act, Government of India hereby declares that the Right of User in the land specified in the schedule appended to this notification is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Government of India hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in Government of India, vest, on this date of the publication of the declaration, in the GAIL (India) Limited, free from all encumbrances.

**JAGDISHPUR – HALDIA-BOKARO-DHAMRA & SPUR PIPELINE PROJECT, 3B SECTION,
WEST BENGAL
SCHEDULE**

State : West Bengal

District	Block	Mauza	J.L. No.	Map	Survey No.	Area		
						Hect.	Are	Sq. mtr.
1	2	3	4	5	6	7		
Purba Medinipur	Sutahata-2	Iswardaha Jalpai	53	LR	35	00	00	13
					36	00	00	80
					48	00	04	80
					50	00	01	92
					51	00	02	27
					52	00	00	60
					54	00	00	27
					57	00	00	30
					234	00	00	71
					2053	00	00	20

[F. No. L-14014/204/2022-GP-II (E-44539)]

RAMJI LAL MEENA, Under Secy.

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 657.—भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1808 तारीख 09.11.2023 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गेल (इण्डिया) लिमिटेड द्वारा ओडिसा राज्य में मुंबई-नागपुर-झारसुगुडा पाइपलाइन (एमएनजीपीएल) और स्पर पाइप लाइन के माध्यम से प्राकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी; और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को उपलब्ध करा दी गई थी; और, सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है; और भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह संतुष्ट हो जाने पर कि उक्त भूमि पाइपलाइनों बिछाने के लिए अपेक्षित है, उस में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, भारत सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइनों बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और भारत सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, निर्देश देती है कि पाइपलाइनों बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, भारत सरकार में निहित होने के बजाए, पाइपलाइनों बिछाने का प्रस्ताव करने वाली गेल (इण्डिया) लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुये, सभी विल्लंगमों से मुक्त, गेल (इण्डिया) लिमिटेड में निहित होगा।

मुंबई-नागपुर-झारसुगुडा प्राकृतिक गैस पाइपलाइन						
अनुभाग- नागपुर-झारसुगुडा						
अनुसूची						
राज्य - ओडिशा						
जिला	तहसील	ग्राम	सर्वे नंबर.	क्षेत्रफल		
1	2	3	4	हेक्टर	आर	वर्ग मीटर
झारसुगुडा	लखनपुर	गोविंदपुर	202	00	00	83
			482	00	01	66
			485	00	06	52
			491	00	12	02
			477	00	06	04
			476	00	00	43
			616	00	07	54
			617	00	05	49
			618	00	04	75
			462	00	03	47
			463	00	00	18

			464	00	01	42
			460	00	30	23
झारसुगुडा	लखनपुर	सागरपाली	446	00	02	35
झारसुगुडा	लखनपुर	बेलपहाड़	1832	00	00	75
			1833	00	01	56
			1834	00	00	57
			1766	00	00	78
झारसुगुडा	लखनपुर	छुअलीबरना	298	00	06	73
			300	00	02	00
			301	00	03	19
झारसुगुडा	झारसुगुडा	तलपतिया	853	00	03	61

[फा. सं. एल-14014/206/2022-जीपी-II(ई-44561)]

रामजी लाल मीना, अवर सचिव

New Delhi, the 5th April, 2024

S.O. 657.—Whereas by the notification of Government of India in Ministry of Petroleum and Natural Gas vide S.O. No. 1808 dated 09.11.2023 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), Government of India declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of natural gas through Mumbai-Nagpur-Jharsuguda Pipeline (MNJPL) & Spur pipeline in the State of Odisha by GAIL (India) Limited;

And whereas copies of the said Gazette notification were made available to the public;

And, whereas the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted his report to Government of India;

And whereas Government of India after considering the said report and on being satisfied that the said land is required for laying the pipelines, has decided to acquire the Right of User therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, Government of India hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Government of India hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in Government of India, vest, on this date of the publication of the declaration, in the GAIL (India) Limited, free from all encumbrances.

Mumbai-Nagpur-Jharsuguda Natural Gas Pipeline						
Section- Nagpur-Jharsuguda						
LAND SCHEDULE						
STATE: ODISHA						
DISTRICT	TEHSIL	VILLAGE	SURVEY NO.	AREA		
1	2	3	4	HECT.	ARE	SQ. MTR.
Jharsuguda	Lakhanpur	Govindpur	202	00	00	83
			482	00	01	66
			485	00	06	52
			491	00	12	02
			477	00	06	04
			476	00	00	43
			616	00	07	54
			617	00	05	49
			618	00	04	75

			462	00	03	47
			463	00	00	18
			464	00	01	42
			460	00	30	23
Jharsuguda	Lakhanpur	Sagarpali	446	00	02	35
Jharsuguda	Lakhanpur	Belpahar	1832	00	00	75
			1833	00	01	56
			1834	00	00	57
			1766	00	00	78
Jharsuguda	Lakhanpur	Chhualibera	298	00	06	73
			300	00	02	00
			301	00	03	19
Jharsuguda	Jharsuguda	Talpatia	853	00	03	61

[F. No. L-14014/ 206 /2022 -GP - II) (E-44561)]

RAMJI LAL MEENA, Under Secy.

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 658.—भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 06 तारीख 18.12.2023 जो भारत के असाधारण राजपत्र तारीख 20.01.2024 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मैसर्स इंद्रधनुष गैस ग्रिड लिमिटेड द्वारा असम राज्य में देरगाँव – दीमापुर प्राकृतिक गैस पाइपलाइन के माध्यम से प्राकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियाँ जनता को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने जनता से प्राप्त आक्षेपों को परीक्षण के उपरांत निपटान कर दिया है;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उप - धारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है;

और भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात और यह संतुष्ट हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, भारत सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और भारत सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, यह निर्देश देती है कि पाइपलाइन बिछाने के लिए भूमि में उपयोग के अधिकार, इस घोषणा के प्रकाशन की तारीख को, भारत सरकार में निहित होने के बजाय, पाइपलाइन बिछाने का प्रस्ताव करने वाली मैसर्स इंद्रधनुष गैस ग्रिड लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुये, सभी विलंगमों से मुक्त, मैसर्स इंद्रधनुष गैस ग्रिड लिमिटेड में निहित होगा।

अनुसूची

जिला : गोलाघाट			राज्य : असम			
सर्कल	मौज़ा	गाँव	दाग नं	क्षेत्रफल		
				हेक्टेअर	आर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)	(7)
सरूपथार	सरूपथार	बेवेजिया	238	00	15	25
			291	00	12	63
			293	00	02	61
सरूपथार	सरूपथार	बरोघोरिया	547	00	22	80
			548	00	17	94
			549	00	13	68
			537	00	04	81
			553	00	23	22
			534	00	17	76
			560	00	16	08
			616	00	03	12
			562	00	28	48
			564	00	13	43
			618	00	18	63
			600	00	22	43
			535	00	23	22

[फा. सं. एल-14014-251-2022-जीपी-II(ई-45398)]

रामजी लाल मीना, अवर सचिव

New Delhi, the 5th April, 2024

S.O. 658.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 06 dated 18.12.2023, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extra Ordinary Gazette of India dated the 20.01.2024, the Government of India declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of Natural Gas through Dergaon-Dimapur Gas Pipeline in the state of Assam by Indradhanush Gas Grid Limited (IGGL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public.

And whereas the objections received from the public to the laying of the pipeline have been considered and disposed by the Competent Authority.

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act submitted its report to the Government of India.

And whereas Government of India after considering the said report and on being satisfied that the said land is required for laying the pipelines, has decided to acquire the Right of User therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, Government of India hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Government of India hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in Government of India, vest, on this date of the publication of the declaration, in the GAIL (India) Limited, free from all encumbrances.

SCHEDULE

District: Golaghat			State: Assam			
Circle	Mouza	Gaon	Dag No	Area		
				Hectare	Arc	Sqm
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sarupathar	Sarupathar	Bebejia	238	00	15	25
			291	00	12	63
			293	00	02	61
Sarupathar	Sarupathar	Baroghariya	547	00	22	80
			548	00	17	94
			549	00	13	68
			537	00	04	81
			553	00	23	22
			534	00	17	76
			560	00	16	08
			616	00	03	12
			562	00	28	48
			564	00	13	43
			618	00	18	63
			600	00	22	43
			535	00	23	22

[F. No. L-14014-251-2022-GP-II (E-45398)]

RAMJI LAL MEENA, Under Secy.

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 659.—भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 कि उपधारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 4959 (अ) तारीख 26.10.2023 जो भारत के असाधारण राजपत्र तारीख 17.11.2023 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मैसर्स इंद्रधनुष गैस ग्रिड लिमिटेड द्वारा पश्चिम बंगाल राज्य में नार्थ-इस्ट नेचुरल गैस पाइपलाइन ग्रिड परियोजना के सिलीगुड़ी – गंगटोक खंड के मध्यायम से प्राकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियाँ जनता को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने जनता से प्राप्त आक्षेपों को परीक्षण के उपरांत निपटान कर दिया है;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उप - धारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है;

और भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात और यह संतुष्ट हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, भारत सरकार, उक्त अधिनियम की धारा 6 कि उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और भारत सरकार, उक्त अधिनियम कि धारा 6 कि उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, यह निर्देश देती है कि पाइपलाइने बिछाने के लिए भूमि में उपयोग के अधिकार, इस घोषणा के प्रकाशन की तारीख को, भारत सरकार में निहित होने के बजाय, पाइपलाइन बिछाने का प्रस्ताव करने वाली मैसर्स इन्द्रधनुष गैस ग्रिड लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुये, सभी विलंगमों से मुक्त, मैसर्स इन्द्रधनुष गैस ग्रिड लिमिटेड में निहित होगा।

सिलीगुड़ी – गंगटोक पाइपलाइन परियोजना							
अनुसूची							
जिला : जलपाईगुरी				राज्य : पश्चिम बंगाल			
सर्कल	तहसील	गाँव//मौज़ा	थाना नं.	दाग नं	क्षेत्रफल		
					हेक्टेअर	आर	वर्ग मीटर
1	2	3	4	5	6	7	8
जलपाईगुरी	मयनागुडि	उत्तर मौमारी	40	2102	00	00	04
				2135	00	01	17
जलपाईगुरी	मयनागुडि	काठालबाड़ी	20	5271	00	00	07
जलपाईगुरी	मयनागुडि	सिंगीमारी	41	2147	00	00	63
				2219	00	00	93
जलपाईगुरी	मयनागुडि	बउलबाड़ी	17	3734	00	02	99
				3733	00	07	89
				3729	00	02	55
जलपाईगुरी	मयनागुडि	चातरार पार	18	2175	00	16	22
जलपाईगुरी	मालबजार	बिदुरेर डांगा	106	209	00	00	79
जलपाईगुरी	मालबजार	उत्तर खालपाड़ा	86	1069	00	01	63
जलपाईगुरी	मालबजार	उत्तर माझग्राम	74	1754	00	01	79
जलपाईगुरी	मालबजार	निपूछापुर	51	1898	00	02	47
जलपाईगुरी	मालबजार	बेतबाड़ी चाबागान	38	111	00	00	20

[फा. सं. एल-14014-2-2023-जीपी-II(ई- 45875)]

रामजीलाल मीना, अवर सचिव

New Delhi, the 5th April, 2024

S.O. 659.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No.4959 (E) dated the 26.10.2023 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extra Ordinary Gazette of India dated the 17.11.2023 Government of India declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of Natural Gas through Siliguri-Gangtok section of North – East Natural Gas Pipeline Grid Project in the state of West Bengal, by Indradhanush Gas Grid Limited (IGGL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public.

And whereas the objections received from the public to the laying of the pipeline have been considered and disposed by the Competent Authority.

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act submitted its report to the Government of India.

And whereas the Government of India after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 6 of the said Act, the Government of India hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Government of India hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in Government of India, vest, on this date of the publication of the declaration, in the Indradhanush Gas Grid Limited (IGGL), free from all encumbrances.

SILIGURI – GANGTOK PIPELINE PROJECT							
SCHEDULE							
District:- Jalpaiguri					State : West Bengal		
Circle	Tahsil	Name of the Village/ Mouza	JL No.	Survey No.	Area		
					Hectare	Are	Sq.mtr.
1	2	3	4	5	6	7	8
Jalpaiguri	Moynaguri	Uttar Mouamari	40	2102	00	00	04
				2135	00	01	17
Jalpaiguri	Moynaguri	Kathalbari	20	5271	00	00	07
Jalpaiguri	Moynaguri	Singimari	41	2147	00	00	63
				2219	00	00	93
Jalpaiguri	Moynaguri	Boulbari	17	3734	00	02	99
				3733	00	07	89
				3729	00	02	55
Jalpaiguri	Moynaguri	Chatarar Par	18	2175	00	16	22
Jalpaiguri	Malbazar	Bidurerdanga	106	209	00	00	79
Jalpaiguri	Malbazar	Uttar Khalpara	86	1069	00	01	63
Jalpaiguri	Malbazar	Uttar Majhgram	74	1754	00	01	79
Jalpaiguri	Malbazar	Nipuchapur	51	1898	00	02	47
Jalpaiguri	Malbazar	Betbari Tea Garden	38	111	00	00	20

[F. No. L-14014-2-2023-GP-II (E- 45875)]

RAMJI LAL MEENA, Under Secy.

विद्युत मंत्रालय

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 660.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में विद्युत मंत्रालय के प्रशासनिक नियंत्रणाधीन आरईसी लिमिटेड के क्षेत्रीय कार्यालय, विजयवाड़ा, 54-15-13 बीएसआर हिल व्यू, द्वितीय तल, श्रीनिवास नगर बैंक कॉलोनी, विजयवाड़ा-520008

(आंध्र प्रदेश), जिसके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

[फा. सं. 11011/01/9/2024-हिंदी]

धीरज कुमार श्रीवास्तव, मुख्य अभियंता (प्रभारी राजभाषा)

MINISTRY OF POWER

New Delhi, the 5th April, 2024

S.O. 660.—In pursuance of Sub Rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notify the Regional Office, Vijaywada, 54-15-13, BSR Hill View, 2nd Floor, Srinivasa Nagar Bank Colony, Vijayawada-520008 (Andhra Pradesh) of REC Limited under the administrative control of Ministry of Power, where 80% of the staff have acquired working knowledge of Hindi.

[F. No.11011/01/9/2024-Hindi]

DHIRAJ KUMAR SRIVASTAVA, Chief Engineer (In-Charge O.L.)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 4 अप्रैल, 2024

का.आ. 661.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (51/2013) प्रकाशित करती है।

[सं. एल-12012/96/2012- आई आर (बी-II)]

सलोनी, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 4th April, 2024

S.O. 661.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 51/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen.

[No. L-12012/96/2012- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**

Present: **Sri IRFAN QAMAR**
Presiding Officer

Dated the 15th day of February, 2024

INDUSTRIAL DISPUTE No. 51/2013

Between:

Sri A V S K Suresh,
C/o Indian Bank Employees' Union (A.P.)
Banjara Sadan, Street No. 14,
Himayatnagar,
Hyderabad – 500 029.

..... Petitioner

AND

The Zonal Manager,
Zonal Office, Indian Bank,

10.03.74, PVN Complex, Seshpeeran Street,
Chittoor. Chittoor Dist.

.... Respondent

Appearances:

For the Petitioner : M/s. G. Vidya Sagar, K. Udaya Sri, P. Sudheer Rao, V. Ashok Kumar Reddy, D. Madhusudhan & D.Sunil Kumar, Advocates

For the Respondent : M/s. Subramanyam Kurella & Ch. Rama Mohana Rao, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 12012/ 96/2012-IR(B.II) dated 8.3.2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Indian Bank and their workman. The reference is,

SCHEDULE

“Whether the action of the management in imposing the punishment of being brought down by two stages on Shri AVSK Suresh, Clerk/Shroff is justified? What relief is the workman entitled to?”

The reference is numbered in this Tribunal as I.D. No. 51/2013 and notices were issued to the parties concerned.

2. The averments made in the claim statement are as follows:

It is submitted that the Petitioner/workman joined in service on 26.8.1996 as a Clerk/Shroff/Typist in the Indian Bank at Vakkadai Branch Tiruvannamali District, Tamilnadu, he was transferred to Regional Office Tirurannamali in the month of Feb, 1997, and subsequently he was transferred to Srikalahasthi Branch in the year 2001. He was further transferred to Kallur Branch in year 2007. Since then Petitioner /workman has been discharging his duties to the entire satisfaction of his superiors. It is submitted that while Petitioner was discharging his duties as a Cashier the Respondent bank issued a Charge Sheet dated 08.12.2009 to him by the Asst. General Manager / Disciplinary Authority, Circle Office, Chittoor. The charges in brief are as follows:

Charge 1 : Mr. Radhakrishnaiah, customer of the Branch handed over to the Petitioner on 04.08.2009, Rs. 15,000/- for remitting into his SB Account No. 581451484 when the Petitioner went to the customer's hotel for lunch on that day during lunch recess. When he updated the Passbook on 10.08.2009, he came to know that a sum of Rs. 1,500/- only had been credited to his account. By then the Petitioner was on leave. Subsequently, on verifying the record, the employee brought it to the notice of the customer that he had credited on the same day, Rs. 9,000/- to the party's brother's account, apart from the Rs. 1,500/- credited to the party's account. He withdrew the complaint on 01.09.2009 stating that on verification of accounts and calculations in his book, he felt that the amount handed over to the Petitioner on 04.08.2009 was not Rs. 15,000/- but Rs. 10,500/- only.

Charges 2 : Mr. Radhakrishnaiah alleged to the Investigating Official that he never gave his brother's account number to the Petitioner but the Petitioner had credited to the party's brother's account without any instruction from the party. Verification with Mani Iyer, the customer's Brother also revealed that he had not given any money to the Petitioner for crediting his account.

Charge 3 : Verification of vouchers revealed that credit vouchers were prepared, entered and initialed by the Petitioner on 04.08.2009 for crediting Rs.1,500/- and Rs.9,000/- in the SB Accounts of the customer and brother respectively. No remittance challan allegedly given for crediting Rs.15,000/- into the customer's SB Account was not available in the branch.

Charge 4 : Signature of the customer was not available on the back side of those credit vouchers prepared, entered and initialed by the Petitioner.

Charge 5 : The credit voucher prepared by the Petitioner was originally made for Rs.3,000/- but subsequently altered as Rs. 1,500/- by him.

Charge 6: It is alleged that Ms. Suguna, a customer gave a withdrawal slip for Rs.10,000/- authorizing the amount to be paid to her husband, Sri G.R.Ramakrishnaiah Naidu. However the amount was transferred to Ramakrishnaiah's account without proper verification.

Charge 7 : The Petitioner had reported excess cash of Rs. 5,000/- and Rs. 300/- on 06.07.2009 and 10.08.2009 respectively evidencing that he was not executing his duties as expected of him.

It is submitted that the charges leveled against the Petitioner are false and incorrect, Petitioner has not committed any irregularities as alleged by the Respondent bank. After receipt of the charge sheet same Petitioner/workman has submitted his reply on 28.12.2009 which was found not satisfactory by the Disciplinary Authority and conducted a farce enquiry on 10.02.2010 and 06.03.2010. The Presenting Officer submitted his brief on 26.03.2010 and the

Defence Representative had submitted his statement on 10.04.2010. The Enquiry Officer submitted his findings dated 26.04.2010 holding that all the 7 charges except charge No.1 were proved. The Petitioner has submitted his comments/objections on 08.05.2010 on the findings of the enquiry officer. It is submitted that based on the perverted findings of the Enquiry Officer the Disciplinary Authority had issued show cause notice dated 16.06.2010 stating that the Disciplinary Authority has agreed with the Enquiry Officer's findings and proposed the punishment of being brought down to lower stage in the scale of pay upto two stages. Respondent bank advised the Petitioner to attend personal hearing, which he attended on 26.06.2010. Without considering the facts and circumstances of the case, the Disciplinary Authority passed punishment order dated 28.06.2010 and inflicted the punishment of being brought down to a lower stage in the scale of pay upto two stages. The action on part of the Disciplinary Authority in imposing the punishment is illegal arbitrary and unjust. There is no evidence before the Disciplinary Authority to show that Petitioner has committed irregularities as alleged by the Respondent bank. After passing the said punishment order, Petitioner has submitted his appeal dated 10.08.2010 before the appellate authority explaining the facts and circumstances of the case and further requested the appellate authority to set aside the punishment order. It is submitted that without considering the same the Appellate authority rejected the appeal submitted by the Petitioner vide order dated 18.01.2011. The action on the part of the Appellate Authority in rejecting the appeal preferred by the Petitioner is illegal and misconstrued. It is further submitted that of all the charges, Charge No. 1 alone alleges grave lapses including misappropriation. Since the Enquiry Officer held it was not proved and as the same was also concurred by the Disciplinary Authority, the Petitioner confines to the other charges only in this submission, viz., charges 2 to 7. Charge No. 2 alleged that the Petitioner credited Rs.9,000/- to the customer's brother's account without any instruction from the Customer. In this regard, it is submitted that there cannot be no other reason or purpose for the employee to remit Rs.9,000/- to the party's brother's account and the Petitioner had not been benefited in any manner in this regard. A perusal of the following aspects will firmly establish that the Petitioner had remitted Rs.9,000/- based on the customer's instructions only which the customer had forgotten in the midst of his busy and multifarious schedule. Deposing as a witness in the enquiry, the customer himself has stated that "after getting entries in my brother's passbook, I found that Rs.9,000/- entry was available. So I was satisfied with the transaction and withdrew the complaint after one week". Thus, it is evident that the customer had been in possession of the passbook of his brother and very much knew his brother's account number. His brother has been very much staying just opposite the customer's hotel and the brother too was undertaking RTO and General Insurance business just like the customer. Hence there has been every possibility for money transaction between them. The customer on an average undertook 30 to 40 transactions a day pertaining to his multifarious activities like running a hotel, working as postman, LIC agent, RTO agent and cultivation. It might be true that the customer's brother told that he never asked the Petitioner to remit Rs.9,000/- to his account. But the fact is that though the amount had been lying in the account for months together he never informed the Branch that it did not relate to him and that it should be reversed. This fact evidences that the money was very much due to Mani Iyer from his brother, the customer of the branch. All the above vital factors unambiguously evidences that the Petitioner had credited the brother's account based on the clear instructions from the customer and the account number concerned had been very much given to the Petitioner by the customer only. It is submitted that Charge No. 3 pertains to certain formalities and procedures followed at any branch of a bank. There are certain prescribed forms, challans, withdrawal slips, etc. for the customers to carry out their transactions with the Bank's branch relating to withdrawal or remittance of amount. There are a set of vouchers, etc. for carrying out internal transactions inside a branch by the working staff. In the instant case the Customer handed over the money to the Petitioner employee when he went to the customer's hotel during the lunch recess where he used to take his lunch. In view of this relationship and with a view to extend service to a regular customer the Petitioner accepted it. Further the money was to be remitted into two accounts. The customer did not give the remittance challan but the money only. Since the Petitioner himself was remitting money into the customer's account on behalf of the customer he did it through internal vouchers used by the staff only. Such a practice is very common in almost all branches of Respondents bank. The charge sheet itself informs that the customer "used to give cash to Mr. A.V.S.K. Suresh, Clerk/Shroff/Typist of Kallur Branch for credit of his deposit / loan accounts". Thus it is evident that on many occasions the Petitioner has remitted on behalf of the customer and the administration has never taken any objection to it. The moot point to look into in such transaction is whether the amount is duly remitted to the Concerned customer's account or not. It bears no relevance whether such crediting is done through internal vouchers or through challans meant for customers as long as the money has been properly remitted. If at all an allegation is to be brought out in this regard, it should be pertaining to minor deviations only and certainly not under gross misconduct, viz., negligence, misappropriation, etc.. It is submitted that with regard to Charge No. 4 it has been submitted that the credit vouchers were prepared by the employee at the branch in the absence of the customer for the money received not at the branch but at the customer's place, the hotel. Petitioner undertook the transaction as a service rendered to a known customer in his absence. While so, it is not at all possible to obtain the signature of the customer at the back of the voucher. It is submitted with regard Charge No. 5, that it is inexplicable how carrying out a correction when a genuine mistake inadvertently takes place in the course of attending to one's duties can be categorized as a misconduct at all. It is submitted that pertaining to the details in Charges No.3 to 5 the concerned customer himself had very much ratified it. Complainant customer was satisfied with the transactions once the details of having remitted amount of Rs.9,000/- to his brother's account was brought to his notice. He withdrew the complaint on his own free will and without any compulsion from anybody. When the customer himself had ratified

the entire transaction and withdrawn his complaint, the departmental proceedings initiated against the Petitioner would not stand. It is further submitted that it is pertinent to note that there has not been any complaint or grievance at all from the account holder Ms. Suguna or her husband, Mr. Ramakrishnaiah Naidu, the payee of the instrument. Ms. Suguna drew a withdrawal slip on her account for amount of Rs.10,000/- and authorized her husband to receive the amount. The amount was actually meant to be handed over to Mr. Radhakrishnaiah towards Insurance Premium. When the husband came to the branch to encash the withdrawal slip, on that day there was heavy crowd in bank. Hence the account holder's husband himself prepared a remittance challan for crediting the said amount of Rs.10,000/- into Mr. Radhakrishnaiah's account and handed it over to him along with the withdrawal slip, Mr. Radhakrishnaiah in turn handed it to the employee when he came to the Hotel for lunch, for crediting his account. It is to be noted that Mr. Ramakrishnaiah Naidu is the lawful owner of the said withdrawal slip since his wife, the account holder had authorized him to receive the proceeds. As such the husband is very much at liberty to pass on the proceeds to anyone he likes. It is to be noted that the husband himself has prepared the remittance challan in favour of Mr. Radhakrishnaiah and signed in the place of remitter. The Branch Manager himself deposing as MW-3 in the enquiry has stated that "the signature available under remitter column in pay in slip and the signature authorized by the drawer Mrs. Suguna appear to be same". As such nothing wrong has taken place and in fact what the account holder and her husband had intended only had taken place. This charge too is not a valid charge at all. It is submitted that with regard to Charge. No. 7 on certain rare occasions the accounts in the cash department do not get tallied and result in excess or shortage. The Respondent cannot expect perfection and accurate tallying on all the days. In spite of the employee's utmost care and extreme caution due to various reasons more so in the background of heavy rush across the counter very rarely mistakes do occur. Such happenings are quite incidental. In the instant two cases, the Petitioner had arrived at excess of Rs.5,000/- and Rs.300/-. Dutifully and honestly he had brought this to the notice of the administration and credited to the Sundries account. It is inexplicable how such a routine happening and sincere conduct on the part of the Petitioner are categorized as misconduct. There has not been any fault at all on the part of the Petitioner. It has all been due to professional and operational hazard only. It is submitted that on such occasions of arriving at excess the vital aspect to be taken note of is whether the amount had been properly accounted in the sundries account meant for this purpose. Only when the employee concerned does not bring the amount to account and seeks to misappropriate it the matter has to be viewed seriously. At the most such incident can be viewed as negligence only. It does not warrant instituting departmental proceedings with a charge under gross misconduct. It is submitted that excess cash had also been reported on 08.10.2009 by another staff, Mr. Venkatesu. Such instances being quite normal and unavoidable for any clerk working in the cash counter the Petitioner alone had been discriminated to be inflicted with a severe punishment. It is submitted that the Petitioner had been absolved of the serious charge of misappropriation. The other charges held proved by the Enquiry Officer are not misconduct at all in the strict sense of the term. If at all there had been any lapses they are procedural lapses only. It is submitted that without considering the explanation submitted that the Petitioner the disciplinary authority ordered an enquiry into the alleged incident. In the Enquiry the Respondent management has examined witnesses M.1 to M.5 and marked exhibits M.1 to M. 15. The Petitioner has taken defense assistance from Sri. J. Thomas Jayaprabakaran. During the enquiry the Enquiry Officer had not given reasonable opportunity to the Petitioner to defend his case, and without considering the facts and circumstances of the case the Enquiry Officer submitted his findings that the charges held proved against the Petitioner except for charge No. 1. Hence the findings of the enquiry officer in holding charges No. 2 to 7 as proved are perverse and liable to be vitiated. It is submitted that based on the perverse findings of the enquiry officer the disciplinary authority has passed orders Dt. 28-06-2010 imposing major punishment i.e., brought down to lower stage in the scale of pay up to two stages, as per clause No. 6 (e) of Memorandum of Settlement Dt. 10-04-2002. The action on part of the Respondent in imposing the punishment of being brought down to lower stage in the Scale of pay up to two stages is illegal arbitrary and unjust. It is submitted that aggrieved by the same the Petitioner preferred an appeal before the DGM/Appellate Authority Head Office Chennai vide appeal Dt. 09.08.2010 explaining the facts and circumstances of the case and further requested the Disciplinary Authority to reconsider his case by duly setting aside the punishment Order Dt. 28.06.2010. Without considering the facts and circumstances of the case the appellate authority has rejected the appeal vide order Dt. 18.01.2011. It is submitted that aggrieved by the orders passed by the Respondent/bank Petitioner approached the conciliation officer (Central) who in turn submitted a failure report to the Government of India, and hence this reference. In spite of the above, the Disciplinary Authority had imposed a very harsh punishment of "Be brought down to lower stage in the scale of pay upto two stages". The punishment is not at all warranted and highly disproportionate. In fact there has not been any serious lapse amounting to misconduct and hence no punishment at all is warranted. Reduction by two stages involves a reduction of not less than Rs. 3,000/- every month in the salary which will be running to so many lakhs in the long course of the Petitioner's service. The Petitioner had not committed any serious and grave lapse to warrant so severe and grave a punishment. It is submitted that only in cases of grave charges such severe punishment had been necessitated. The allegations against the Petitioner had in no way been grave, serious or gross. It is submitted that it is true that the punishment imposed on the Petitioner is not one of dismissal or discharge. However the instant case cries for a re-appreciation of the evidence by this Tribunal. The charges have been built on flimsy reasons and in certain cases without reason or basis at all. At the most the shortcoming on the part of the Petitioner pertains to a little negligence only as in charge no. 7. Of the seven charges, charge No.1 alone alleges a serious lapse of misappropriation. The Petitioner had been totally absolved of the

said charges. Therefore, it is prayed to declare the action on part of the Respondent Bank in imposing the punishment of "being brought down to lower stage in the scale of pay upto two stages" vide order Dt. 28.06.2010 and appellate order Dt. 18.01.2011 in rejecting the appeal as illegal and unjustified and set aside the same, and consequently pass an Award directing the Respondents bank to rescind the punishment, refund the amount recovered on account of the punishment together with interest and pass such order or other orders under the circumstances of the case.

3. Respondent appeared through counsel on 15.10.2013 and filed vakalath with the leave of the court but despite sufficient opportunity extended to the Respondent, he did not preferred to file counter. The Court vide order dated 22.10.2013 set the case ex-parte against Respondent and matter was fixed for Petitioner's evidence.

4. Petitioner has examined himself and marked photocopies of twelve documents i.e., Ex.W1 to W12 in support of his claim.

5. **From the perusal of the pleadings of the Petitioner and relevant documents, following points emerge for determination in the present matter:-**

I Whether the action of the Management of Respondent Bank in imposing the punishment of being brought down by two stages on Sri A.V.S.K. Suresh, Clerk/Shroff is justified?

II. To what relief the Petitioner is entitled for?

Findings:-

8. **Point No.I:** Petitioner has argued that out of all the charges charge No.1 alone alleged to be of grave lapse including misappropriation. Since the Enquiry Officer held it was not proved and same was also concurred by the Disciplinary Authority, the Petitioner confine to the other charges only in his submissions, i.e., charges No.2 to 7. Further, Petitioner submits that it is alleged that he has credited Rs.9000/- to the customer's brother's account without any instruction from the customer. In this regard it is submitted that there cannot be no other reason or purpose for the employee to remit Rs.9000/- to the party's brothers account and the Petitioner had not been benefited in any manner in this regard. A perusal of the following aspects will firmly establish that the Petitioner has remitted Rs.9000/- based on the customer's instructions only which the customer had forgotten in the midst of busy schedule. Further, it is submitted that deposing as a witness in the inquiry, the customer himself deposed that after getting entries in his brother's passbook he was satisfied with the transaction and withdrew the complaint after one week. That the customer had been in possession of the passbook of his brother and very much knew his brother's account number. His brother has been very much staying just opposite the customer's hotel and the brother too was undertaking RTO and General Insurance business just like the customer. Hence, there has been every possibility of money transaction between them. The Petitioner had credited the money to the brother's account of the customer based on clear instructions of the customer, and the account number concerned had been very much given to the Petitioner by the customer only. As regard to charge No.3, it pertains to certain formalities and procedures followed at any branch of a bank. There are certain prescribed forms, challans, withdrawal slips, etc., for the customers to carry out their transactions with the Bank's branch relating to withdrawal or remittance of money. Further, it is submitted that the customer did not give the remittance challan but the money only. Since the Petitioner was remitting money into the customer's account on behalf of the customer, he did it through internal vouchers used by the staff only. Such practice is very common in almost all branches of Respondent's bank. The charge sheet itself mentions that the customer, "used to give cash to Mr. A.V.S. K. Suresh, Clerk/Shroff/Typist of Kallur Branch for credit of his deposit/ loan accounts." Thus, it is evidenced that on many occasions he has remitted on behalf of the customer and the administration has never taken any objection to it. The moot point to look into in such transaction is whether the amount is duly remitted to the concerned customer's account or not. It bears no relevance whether such crediting is done through internal vouchers or through challans meant for customers as long as the money has been properly remitted and accounted. Further, it is submitted that if at all an allegation is to be brought on record it should be pertaining to minor deviations only and certainly not come under gross misconduct, i.e., negligence, misappropriation, etc.. accordingly, and it does not warrant any corrective action and more so through departmental proceedings. As regard to charge No.4, he has submitted that credit vouchers were prepared by the employee at the branch in the absence of the customer for the money received not at the branch but at the customer's place, the hotel. The employee undertook the transaction as a service rendered to a known customer in his absence. While so, it is not at all possible to obtain the signature of the customer at the back of the voucher. As regard, to charge No.5 he has submitted that it is not inexplicable now carrying out a correction when a genuine mistake inadvertently takes place in the course of attending to one's duties can be categorized as a misconduct at all. Therefore, it is submitted that pertaining to the details in charges No.3 to 5 the concerned customer himself had very much ratified it. He was satisfied with the transactions once the details of having remitted amount of Rs.9000/- to his brother's account was brought to his notice. He withdrew the complaint on his own free will and without any compulsion from anybody. When the customer himself had ratified the entire transaction had withdrawn his complaint the departmental proceedings initiated against the Petitioner would not stand. Further, Petitioner has advanced the argument that there has not been any complaint or grievance at all from the account holder Ms. Suguna or her husband, Mr. Ramakrishnaiah Naidu, the payee of the instrument. Ms. Suguna drew a withdrawal slip on her account for

Rs. 10000/- and authorized her husband to receive the amount. The amount was actually meant to be handed over to Mr. Radhakrishnaiah towards insurance premium. When the husband came to the branch to encash the withdrawal slip, on that day there was heavy crowd in bank. That the account holder's husband himself prepared a remittance challan for crediting the said amount of Rs.10000/- into Mr. Radhakrishnaiah's account and handed it over to him along with the withdrawal slip, Mr. Radhakrishnaiah in turn handed it to the employee when he came to the hotel for lunch for crediting his account. It is to be noted that Mr. Radhakrishnaiah Naidu is the lawful owner of the said withdrawal slip since his wife, the account holder had authorised him to receive the proceeds and husband is very much at liberty to pass on the proceeds to anyone he likes. It is to be noted that the husband himself has prepared the remittance challan in favour of Mr. Radhakrishnaiah and signed in the place of remitter. Further, the Branch Manager himself deposing as MW3 in the enquiry has stated that, "the signature available under remitter column in pay in slip and the signature authorized by the drawer Mrs. Suguna appear to be same. As such noting nothing wrong has taken place and in fact what the account holder and her husband intended only had taken place. This charge too is not a valid charge at all. Intention alone, more than action, matters. As regard, charge No.7 the Petitioner has submitted that on certain rare occasions the accounts in the cash Department do not get tallied and result in excess or shortage and Petitioner can not expect perfection and accurate tallying on all the days. In spite of the employee's utmost care and extreme caution due to various reasons more so in the background of heavy rush across the counter very rarely mistakes do occur. In the instant two cases, he had arrived at excess of Rs.5000/- and Rs.300/-. Dutifully and honestly he had brought this to the notice of the administration and credited to the Sundries account. It is inexplicable how such a routine happening and sincere conduct on the part of Petitioner are categorized as misconduct. There has not been any fault at all on the part of the Petitioner and it has all been due to professional and operational hazard only. Further, he has submitted that excess cash had also been reported on 08.10.2009 by another staff, Mr. Venkatesu. Such instances being quite normal and unavoidable for any clerk working in the cash counter. Further, the Petitioner argues that alone had been discriminated to be inflicted with a severe punishment. It is submitted that the Petitioner had been absolved of the serious charge of misappropriation. The other charges held proved by the Enquiry Officer are not misconduct at all in the strict sense of the term. If at all there had been any lapses they are procedural lapses only. Such instances of crediting through internal vouchers in the absence of the party as a measure of customer service are quite common in banking. Further, Petitioner submitted that during the enquiry the enquiry officer had not given reasonable opportunity to the Petitioner to defend his case, and without considering the facts and circumstances of the case the enquiry officer submitted his findings that the charges held proved against me except for charge No.1. Hence the findings of the enquiry officer in holding charges No. 2 to 7 as proved are perverse and liable to be vitiated.

9 In view of the submissions made on behalf of the Petitioner, perused the record. For the alleged misconduct, Respondent Management issued the charge sheet to the Petitioner after initiation of Departmental Enquiry and charge sheet dated 8.12.2009 contains as many as seven charges which reads as follows:-

Charge 1 : Mr. Radhakrishnaiah, customer of the Branch handed over to the Petitioner on 04.08.2009, Rs. 15,000/- for remitting into his SB Account No. 581451484 when the Petitioner went to the customer's hotel for lunch on that day during lunch recess. When he updated the Passbook on 10.08.2009, he came to know that a sum of Rs. 1,500/- only had been credited to his account. By then the Petitioner was on leave. Subsequently, on verifying the record, the employee brought it to the notice of the customer that he had credited on the same day, Rs. 9,000/- to the party's brother's account, apart from the Rs. 1,500/- credited to the party's account. He withdrew the complaint on 01.09.2009 stating that on verification of accounts and calculations in his book, he felt that the amount handed over to the Petitioner on 04.08.2009 was not Rs. 15,000/- but Rs. 10,500/- only.

Charges 2 : Mr. Radhakrishnaiah alleged to the Investigating Official that he never gave his brother's account number to the Petitioner but the Petitioner had credited to the party's brother's account without any instruction from the party. Verification with Mani Iyer, the customer's Brother also revealed that he had not given any money to the Petitioner for crediting his account.

Charge 3 : Verification of vouchers revealed that credit vouchers were prepared, entered and initialed by the Petitioner on 04.08.2009 for crediting Rs.1,500/- and Rs.9,000/- in the SB Accounts of the customer and brother respectively. No remittance challan allegedly given for crediting Rs.15,000/- into the customer's SB Account was not available in the branch.

Charge 4 : Signature of the customer was not available on the back side of those credit vouchers prepared, entered and initialed by the Petitioner.

Charge 5 : The credit voucher prepared by the Petitioner was originally made for Rs.3,000/- but subsequently altered as Rs. 1,500/- by him.

Charge 6: It is alleged that Ms. Suguna, a customer gave a withdrawal slip for Rs.10,000/- authorizing the amount to be paid to her husband, Sri G.R.Ramakrishnaiah Naidu. However the amount was transferred to Ramakrishnaiah's account without proper verification.

Charge 7 : The Petitioner had reported excess cash of Rs.5,000/- and Rs. 300/- on 06.07.2009 and 10.08.2009 respectively evidencing that he was not executing his duties as expected of him.

10. Perusal of the enquiry report goes to reveal that the Petitioner has been exonerated by the Enquiry Officer from the charge under head “1”. Since he has been exonerated from the charge under the head “1”, the charges under the heads No.2,3,4,5 are very much inter related with charge No.1 and in the absence of guilt under the charge No.1, the rest of the charges No.2,3,4,5, itself failed to prove misconduct of the Petitioner. However, the allegations made in charges No.2,3,4,5,6 and 7 can be termed only as procedural lapses which occurs in the day to day working of the bank and there is very much possibility to occur due to heavy rush of the customer at the bank counter in the working hours. Further, as regards charge under head “7” is concerned, it reads out that Petitioner has reported that an excess of cash of Rs.5,000/- and Rs.300/- on 6.7.2009 and 10.8.2009 respectively. It may occur in a day to day normal functioning of the bank and it may be called as a bonafide human error in counting the cash by a clerk/cashier. The bonafide of the Petitioner in this case reflects by his conduct of immediately informing the same to Branch Manager and the same excess amount has been deposited to the sundry account of the bank. Therefore, in such circumstances it can not be said that the Petitioner has committed any serious misconduct or negligence in discharging his duty. Further, as regard the charge under the head, “6”, perusal of record would reveal that there is no iota of evidence available on record in this context and the account holder Mrs. Suguna has not moved any oral or written complaint to the Bank alleging that the Petitioner has misappropriated the amount of Rs.10000/- shown in withdrawal slips issued in favour of Mr. Radhakrishnaiah. Further, Petitioner has examined himself as WW1 and in his sworn testimony he has proved contents of his claim petition. The documents Ex.W1 to W12 have been exhibited by the witness WW1 in support of oral evidence. Since the witness WW1 has not been cross examined by the Respondent his testimony remains uncontraverted.

11. Therefore, in view of the fore gone discussion I arrived at conclusion that the Petitioner on the basis of oral and documentary evidence has successfully established his claim. More over the contention and evidence produced by the Petitioner in support of his claim, remained uncontraverted. Respondent despite sufficient opportunity, afforded to him, he did not file any counter or appeared to participate in the proceeding. Therefore, I am constrained to hold on the basis of uncontraverted oral and documentary evidence of the Petitioner as on record that the action of the Respondent Bank in imposing the punishment of being brought down two stages on Petitioner Sri A.V.S.K. Suresh, is unjustified. and it is liable to be set aside.

Thus, Point No.1 is decided accordingly.

11. Point No.II: In view of the finding given in Point No. I, claim of the Petition is liable to be allowed and impugned order of punishment dated 28.6.2010 passed by the Disciplinary Authority is liable to be set aside.

Therefore, Point No.II is decided accordingly.

AWARD

The action of the management in imposing the punishment of being brought down by two stages on Shri A.V.S.K. Suresh, Clerk/Shroff is unjustified. The order of punishment dated 28.6.2010 and Appellate order dated 18.1.2011 in rejecting the appeal is held illegal and unjustified and is hereby set aside. Petition is allowed. The Respondent is directed to rescind the punishment and directed to refund the amount recovered on account of the punishment along with interest @12% within four months after receipt of this order. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 15th day of February, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
WW1: Sri A.V.S.K. Suresh

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

Ex.W1:	Photostat copy of office order dt. 19.8.2009
Ex.W2:	Photostat copy of explanation dt.1.9.2009
Ex.W3:	Photostat copy of explanation dt.3.9.2009
Ex.W4:	Photostat copy of charge sheet dt. 8.12.2009
Ex.W5:	Photostat copy of defence statement dt. 10.4.2010
Ex.W6:	Photostat copy of explanation dt. 8.5.2010
Ex.W7:	Photostat copy of show cause notice dt. 16.6.2010
Ex.W8:	Photostat copy of punishment order dt. 28.6.2010
Ex.W9:	Photostat copy of appeal submitted by Petitioner dt. 9.8.10
Ex.W10:	Photostat copy of rejection of appeal dt. 18.1.2011
Ex.W11:	Photostat copy of conciliation application
Ex.W12:	Photostat copy of failure report

Documents marked for the Respondent

NIL

नई दिल्ली, 4 अप्रैल, 2024

का.आ. 662.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (69/2015) प्रकाशित करती है।

[सं. एल-12012/47/2015- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 4th April, 2024

S.O. 662.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 69/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank and their workmen.

[No. L-12011/47/2015- IR(B-II)]

SALONI, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**

Present: **Sri IRFAN QAMAR**
Presiding Officer

Dated the 9th day of February, 2024**INDUSTRIAL DISPUTE No. 69/2015**

Between:

Sri Ch. Pullaiah,

S/o Kondaiah,

Dagadarthi (V),

Dagadarthi (M),

SPSR, Dist: Nellore

..... Petitioner

AND

1. The Divisional General Manager,
Syndicate Bank,
Regional Office,
Nellore District.
 2. The Branch Manager,
Syndicate Bank,
Dagadarthi Branch,
District. Nellore
- Respondents

Appearances:

For the Petitioner : Sri M. Gowri Shankar, Advocate
For the Respondent: Sri Alluri Krishnam Raju, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/47/2015-IR(B.II) dated 14/20.8.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Syndicate Bank, Nellore and their workman. The reference is,

SCHEDULE

“Whether the action of the management of Syndicate Bank, Nellore in terminating the service of Sri Ch. Pullaiah, Ex-Attendar is proper, legal and justified? If not, what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 69/2015 and notices were issued to the parties concerned.

2. The averments made in the claim statement are as follows:

It is submitted that the Petitioner was working as an Attendar in the Respondent Bank since 4.10.1986. He has been working in the same capacity at their Dagadarthi Branch since 1988. While working in the said capacity, he was placed under suspension vide order 009/SUSP/0089/PD:IRD(w) dt. 21.5.2009 by the competent authority alleging that, on 10.04.2009, he has fraudulently withdrawn Rs.12,000/- from different SB a/cs of the customers maintained at the Branch through ATM of Corporation Bank, Nellore by using ATM cards and PIN mailers stolen by him. It is submitted that after lapse of more than one year that respondent No.1 served a charge sheet No. RON/CGS/ 2010/02, dt. 30.6.2009 on the Petitioner, with the charges as under :-

- a. That while working as an attendar at Dagadarthi Branch, he /stealthily removed four undelivered ATM Cards along with PIN mailers on 9.4.2009 which were with Sri Rajesh AMRD.
- b. Subsequently he fraudulently withdrew amounts aggregating to Rs.12,000/- by using the ATM cards and PIN mailers from 4 SB A/Cs. His acts amount to gross misconduct of doing acts prejudicial to the interest of the Bank.

It is submitted that reply to the charge sheet submitted by the Petitioner was not found satisfactory and a departmental enquiry was conducted by appointing as Enquiry Officer. The Enquiry Proceedings were conducted at Hyderabad on 12.10.2010 and 23.11.2010. The Enquiry Officer submitted his report on 6.12.2010 with findings that the charge leveled against the Petitioner (CSOE) as proved. The findings of Enquiry Officer are not based on any evidence, on record but arrived at on the basis of assumptions and presumptions of the Management witnesses. A copy of the report of the E.O. was sent to the Petitioner vide letter No. 2021/3461/474670/A dt. 20.12.2012 by R-1. In response to this the Petitioner submitted detailed reply pointing out that E.O. has arrived at findings only on the basis of his letter dt. 29.7.2009 obtained after placing him under suspension and there is no other documentary evidence to substantiate the allegations. Respondent No.1 did not accept any of the submissions made in the said letter and proposed a punishment of Dismissal from service and gave a personal hearing vide his letter No. 347/5.2.2011 to be held at R.O. Nellore on 17.2.2011. On 28.2.2011 a personal hearing was given to the Petitioner where in the clearly pointed out the lack of evidence to fasten the allegations on him and further pleaded with Respondent No.1 that he has been made a scape goat, for someone else's lapses. Despite detailed explanation, Respondent No.1 who was the Disciplinary Authority without considering the submissions, without giving any reasons for not considering the submissions, with a closed mind, mechanically accepted the findings of the E.O. and confirmed the proposed punishment of "Dismissal from service with immediate effect" vide his orders under REF No. PRS/DGM/RO/2011/03, dt. 29.8.2011. It is submitted that being aggrieved by the unwarranted/harsh punishment imposed by the Disciplinary Authority the Petitioner submitted an Appeal to the Appellant Authority i.e. Respondent No.2 vide his letter

dt. 10.5.2011, explaining in detail that the Disciplinary Authority has passed his order on the basis of assumptions and presumption. Respondent No. 2 gave a personal hearing to the Petitioner during which, the Petitioner clearly brought to light the inconsistencies as compared to the evidence on record in the findings of the Disciplinary Authority. Despite the pleadings of the Petitioner the Appellate Authority without application of mind, without observing the inconsistency apparent on record, merely relied on the conclusions of the Respondent No.1 and confirmed the punishment imposed by Respondent No.1 vide his order No.016/PD:IRD(W)/DAJ Dt. 5.1.2012. It is submitted that in the Departmental Enquiry Management witness MW2 deposed in his Examination in Chief (Q10) that Sri G.Rajesh, Asst. Manager, Rural Development (AIMRI) of the branch used to handle the ATM card issuing and activating and delivering them to the customers as he knows well about the technicalities involved in cards issuing. It is crystal clear from the evidence of MW2, the Branch Manager, that ATM cards and PIN mailers were handled by Sri G. Rajesh AMRD and after activation they were kept in the Safe Custody. Rajesh AMRD in whose custody the ATM cards are held has stated "there is a possibility that Mr. Pullaiah might have stolen/lifted four ATM Cards". Thus, so far as on the charge that the Petitioner stole/stealthily removed ATM card and PIN mailers, the evidence of the Branch Manager and Sri G.Rajesh AMRD, on record speaks. That the ATM cards are held in a box and kept in safe custody after they are activated. There is no eye witness for stealing of cards by the Petitioner. Sri Rajesh is of the view that Petitioner might have stolen the cards. It is submitted that it was not established in the enquiry that the Petitioner had access to the contents of the Box kept in a box and held in safe custody. No transactions can be conducted through an ATM Card unless the same is activated. It is submitted that, basic primary allegation that the Petitioner stole/stealthily removed the ATM cards/PIN mailers is not proved with any documentary/oral evidence, but on the basis of presumptions/assumptions advanced by witnesses, Respondent No.1 arrived at adverse findings which cannot be accepted as evidence in a departmental enquiry. Since the basic allegation that the Petitioner has stolen the cards, mailers is not proved, subsequent events cannot be attributed to him as they cannot be performed without physical possession of cards. It is submitted that, it is further alleged that on 10.4.2009 the Petitioner was found in the ATM room of Corporation Bank at Nellore along with another person when withdrawals were made with the help of alleged stolen ATM cards and when enquired with the Petitioner, admitted having withdrawn the amounts through ATM along with one Sri Pothanaidu. In support of this allegation the Management produced 3 photographs showing "Appearance" of the Petitioner, along with his friend at the ATM cabin of Corporation Bank on 10.4.2009 and CD clippings. It is crystal clear from the photos that, the ATM machine is located in an open space and it is not in a closed cabin. The Petitioner is standing behind some one who is operating the machine. The evidence does not establish that Sri Pullaiah operated the AIM machine and received any money from the ATM machine. It only shows that he was standing by the side of some one who was operating the ATM machine. The evidence on record establishes that one Sri P. Naidu is said to be operating the ATM Sri Pothi Naidu has not been produced by the Management as witness. MW2, the investigating Officer did not meet him and examine him. MEX-7 exhibit does not establish that, the Petitioner, operated the ATM at all and received the monies. It is submitted that the Petitioner honestly admitted that he has visited the ATM machine on 10.4.2009 along with his friend only to watch the procedure of withdrawal. The Management failed to prove through documentary/oral evidence that, the Petitioner stolen 4 ATM cards and PIN mailers and operated ATM Machine of Corporation Bank and received cash from the ATM. Respondents failed to implicate the Petitioner with the help of tangible/acceptable evidence, the Respondents took recourse to the letter alleged to contain admittance of stealing and withdrawing monies. Petitioner could not understand English. There is no independent witness to confirm that, what has been told by Sri Pullaiah, the Petitioner, has been correctly translated in to English. Hence, it is submitted that the veracity English version of the contents of MEX/13 does not establish true version of Sri Pullaiah to MW1. In the absence of admissible evidence to establish that the English version of MEX 13 is true translation of its Telugu version, the veracity of its contents has not been established in the enquiry. It is further submitted that the circumstances under which this letter is obtained by MW1 ought to have been examined by R1. It is submitted that, it is further alleged that the Petitioner, through his son repaid the fraudulently withdrawn sum and returned the ATM cards, which was also not established during enquiry. The remitter of Rs.12,000/- dt. 16.5.2010 said to be the son of Sri Pullaiah has not been produced as a Witness in the Enquiry to confirm that he is the remitter Rs.12,000/ and he did so on the instructions/directions of Sri Pullaiah. The cash was received for credit of "Suspense A/c" in the name of the Branch Manager. R1 and R2 failed to observe that, during the Enquiry (a) MW2, the Branch Manager accepted that there were several lapses in internal working. It is therefore prayed to declare the respondent management is not justified in dismissing the Petitioner from the services of the Bank in respect of charges levelled against him and to reinstate the Petitioner into the services of the Bank with back wages, continuity of service.

3. **Respondent filed counter denying the averments of the Petitioner as under:**

The Petitioner's service conditions are governed by the Bipartite Settlement entered between Indian Bankers Association and the trade unions in the Banking Industry. The Disciplinary Action and the procedure there for in regard to the employees, who come under the definition of Workmen, are governed by the Memorandum of Settlement dt. 10.4.2002. A Charge Sheet dt. 3.6.2010 was issued alleging that the Petitioner while working as an Attendar at Dagardathi Branch had stolen/stealthily removed four undelivered ATM Cards along with PIN mailers from the Branch on 9.4.2009, and fraudulently withdrawn amounts aggregating to Rs. 12,000/- by using those cards from the customer's accounts. The Petitioner was given an opportunity to defend those charges and Departmental

Enquiry was conducted by following the principles of natural justice and the Memorandum of Settlement dt. 10.4.2002 and the Petitioner was represented by a Defense Representative. The Departmental Enquiry was conducted on 12.10.2010 and 23.11.2010. The management examined two witnesses and got the documents marked Ex.MEX1 to MEX26 and the Petitioner did not examine any defense witnesses and no documents were marked on his behalf. The Enquiry Officer submitted a report dt. 6.12.2010 and analyzed the oral and documentary evidence and held basing on that evidence that the charges are proved. A copy of the said report was forwarded to him by the Disciplinary Authority vide Letter dt. 20.12.2010 to the Petitioner asking him to submit his objections, if any, to the findings of the Enquiry Officer. The Petitioner submitted his objections vide Letter dt.8.1.2011. Thereafter, the Disciplinary Authority vide Second Show Cause Notice dt.5.2.2011 proposed punishment of "dismissal from the service of the Bank with immediate effect" and given a personal hearing and the Petitioner attended the same on 28.2.2011. After considering the entire material on record and also submissions made by the Petitioner during personal hearing held on 28.2.2011, the Disciplinary Authority passed the final order vide Proceedings dt. 29.3.2011 imposing the punishment "dismissal from service of the Bank". He categorically held that the management lost the confidence in Petitioner's integrity and honesty and the Respondent being a Commercial Bank dealing with public money cannot afford to retain him in the services of the Bank. The Petitioner preferred an appeal dt. 10.5.2011 against the order passed by the Disciplinary Authority and he was given a personal hearing on 26.7.2011 and thereafter, the Appellate Authority passed a detailed order assigning the cogent reasons for not accepting the contentions raised by the Petitioner in his appeal and for the conclusions arrived and he concurred with the findings of the Disciplinary Authority and also the punishment imposed and dismissed the appeal. Since the Departmental Enquiry was conducted as per the conditions of the procedure applicable and he was given more than adequate opportunity to defend the charges leveled against him and the findings of the Enquiry Officer are based on the oral and documentary evidence brought on record and the Disciplinary Authority gave detailed reasons while concurring with the findings of the Enquiry Officer, the Departmental Enquiry conducted is valid, and therefore, the Tribunal does not have any power to record any evidence to arrive its own conclusions in regard to the charges leveled against the Petitioner. The Respondent being a Commercial Bank and handles the public money cannot afford to retain a person as an employee when it does not have confidence on his honesty and integrity. It is proved that he committed a breach of trust. Therefore, the punishment imposed i.e. dismissal from the service of the bank, is not disproportionate to the gross misconduct committed by him which was proved during the enquiry. Hence, there are no grounds to interfere with the punishment imposed by the Disciplinary Authority which was confirmed by the Appellate Authority. It is submitted that the Petitioner was served with Charge sheet bearing Ref. No. RON/CGS /2010/02 dated 30.06.2010 alleging therein that Sri. Ch. Pullaiah while working as an Attendar at Dagardarhi Branch, had stolen/ stealthily removed four undelivered ATM cards along with PIN mailers from the branch on 09.04.2009 which were with G Rajesh, AMRD by diverting his attention, when he was verifying the cards along with the pin mailers received from the Head Office. Subsequently he had fraudulently withdrawn amounts aggregating to Rs. 12000/- by using the undelivered ATM cards and pin mailers pertaining to the following accounts:

Sl.No.	SB A/c No.	Name of the customer	Amount (Rs.)
1	3485.220.9171	J Mohan Rao	5000
2	-do	-do	5000
3	3485.220.51373	Ms. Syed Naheed	800
4	3485.220.36922	Mr. TBhaskar	1000
5	3485.220.39088	Mr. Ch. Venkateswarlu	200
		Total	12000

The above incident came to light when one of the customer Sri. J. Mohan Rao, from whose account an amount of Rs. 10000/- was withdrawn on 10.04.2009 reported to branch that the withdrawals through ATM was observed in his account though he was not issued with ATM card. The Branch Manager when further verified the ATM cards received from the Head Office which were to be delivered to the customers, it was observed that the ATM cards pertaining to Ms. Syed Naheed holder of SB A/c No. 3485/220/51373, Sri. T Bhaskar holder of SB A/c No. 3485/220/36922 and Sri. Ch. Venkateswarlu holder of SB A/c No. 3485/220/39088 were found missing from the branch since the same were not delivered to the respective customers as per the ATM/ PIN Mailer delivery register of the Branch. On verifying the said accounts it was observed that the amounts mentioned above respectively were withdrawn using the undelivered ATM/ PIN Mailers through the ATM of Corporation Bank, Nellore. When the Branch manager Sri. Subbarayulu was successful in getting the Footage/ images captured by the closed circuit Camera installed in the ATM room of the respective Bank/ Branch, it was found that Sri. CH. Pullaiah along with another person was present on 10.04.2009 when the said fraudulent withdrawals were made. Further when

Sri. Ch. Pullaiah was confronted with this evidence, he admitted the fact of stealing 4 ATM cards along with the PIN mailers and subsequent withdrawals through the ATM of Corporation Bank, Nellore accompanied with one Mr. Vinjam Pothi Naidu of his village and later the amount was reimbursed on 15.05.2009 as late cash and the same was credited to suspense account on 16.05.2009. The above act of stealing ATM cards with pin mailers and withdrawing the amounts on 10.04.2009 was confessed by him vide his letter dt. 29.07.2009 addressed to the Investigating Officer. It was also alleged in the said Charge Sheet that the above acts of Sri. Ch. Pullaiah were very serious and criminal in nature and are detrimental to the interest of the bank as the same had spoiled the fair image of the Bank in the eyes of the public. It is submitted that the Petitioner's reply to the charge sheet was not found satisfactory and the departmental enquiry was conducted by appointing Sri. Arun Kumar, the then Senior Manager (IR) NIRC, Hyderabad as Enquiry Officer and the Enquiry proceedings were conducted on 12.10.2010 and 23.11.2010. The EO submitted his report on 06.12.2010 and held the charge leveled against the Petitioner (CSE) as proved. Regarding the contentions on the findings of the Enquiry Officer, it is absolutely incorrect to say that it is not based on any evidence on record, and also to say that the same is arrived at on the basis of assumptions and presumptions of the Management Witnesses as the Enquiry Officer has held them as proved on the basis of the oral and documentary evidence adduced during the inquiry. The copy of the Charge sheet, the Proceedings of the inquiry, the report of the EO etc. are all already made as documents by the Petitioner while filing the claim petition and it shall be observed from the same that the EO has carefully analyzed the evidence both oral and documentary brought on record, in respect of all the allegations that are leveled against the Petitioner (CSE) and then only the said charge as per the Charge Sheet No. RON/CGS/2010/02 Dt. 30.06.2010 were held as Proved. Further it is submitted that the report of the EO was sent to the Petitioner and in response to the same the Petitioner submitted his reply vide his letter dt. 08.01.2011 the various contentions which he raised on the report of the EO were not acceptable to the Disciplinary Authority considering the seriousness of the acts committed by him and for the reason that he even after utilizing the ample opportunity provided to him to defend his case duly complying to principles of natural Justice by the EO, the Petitioner (CSE) had neither adduced any documentary evidence nor he produced any witness from his side to rebut the charge/ allegations against him though nothing stopped him from producing so, as his submissions alone made during the enquiry as well as vide his written submissions does not hold any water as they have no evidentiary value. As such the Disciplinary Authority concurred with the findings of the EO and held him as guilty of the gross misconduct of "doing acts prejudicial to the interest of the Bank" vide Cl.5 (j) of the Bipartite Settlement (Memorandum of Settlement) dated 10.04.2002 and proposed to award him with the punishment of "dismissal from the services of the bank with immediate effect" and gave the personal hearing on the proposed punishment on 28.02.2011 as per the terms of Show Cause Notice No. 347/RON/CGS/2010/02 dated 05.02.2011 and 485/3461/474670/A dated 21.02.2011. It is on record that on the date of personal hearing i.e. on 28.02.2011 the Petitioner (CSE) submitted inter alia that he was made scape goat for the lapses and omissions of others. Further the Petitioner vide his claim petition stated that the Disciplinary Authority without considering the submissions, without giving any reasons for not considering his submissions, with a closed mind, mechanically accepted the findings of the EO and confirmed the proposed punishment of Dismissal from service with Immediate effect". The DA satisfied himself after going through all records that the EO has held the allegations/ Charge against the Petitioner (CSE) as proved taking into consideration the oral and documentary evidence adduced during the Inquiry, that he was also convinced that the submissions made by Sri. Pullaiah on the EO's report is devoid of any merit i.e. his plea that there is no direct evidence to show that he has stolen the ATM cards and PIN mailers and he has only helped the customers to withdraw amounts and the bank has not examined Sri. Pothi Naidu which would have brought the truth to the fore etc. The Disciplinary Authority has further stated that it was clearly established during the Enquiry by way of photograph and the CD i.e. MEx7 which clearly establishes that Sri. Pullaiah was present in the ATM along with Sri. Pothi Naidu and the transactions carried out by them during the relevant time is also of the accounts pertaining to Dagadarthi Branch. Thus it is for Sri. Pullaiah to establish as to how he was there along with Sri. Pothi Naidu and how he helped the customers when there was no request from their end for such help but on the other hand the concerned customers alleged that they never received the ATM cards and the PIN mailers through which the amounts were withdrawn from their accounts. Further the DA has also observed that Sri. Pullaiah did not disown that he and Sri. Pothi Naidu are known to each other, if at all the evidence of Sri. Pothi Naidu would have helped his case, he should have brought him as his witness and made him to tell the facts known to him. On the other hand the circumstantial evidence indicated that the branch was not keeping the ATM cards and PIN mailers under proper care and control during the business hours and the Petitioner (CSE) had access to catch and everything in the branch. Moreover the Petitioner (CSE) also confessed his connivance with Sri. Pothi Naidu for fraudulently withdrawing amounts from the customers of the branch by using the ATM cards which fact he distracted only at the tail end of the enquiry. Moreover the MW2 has confirmed that the money was sent by Sri Pullaiah through his son towards the reimbursement of the frauds committed by him and since Sri. Pullaiah was not present to deposit the amount, the slip was prepared and deposited the amount under his signature which was not rebutted by the Petitioner (CSE) by adducing any evidence producing his Son as a witness for his defence. Hence the Disciplinary Authority found no merit in the same for the above reasons and without any hesitation he held the Petitioner guilty of the misconduct of stealing ATM cards with PIN mailers from the branch and utilizing them for withdrawing the amounts fraudulently from the accounts of the customers of the bank through ATM of Corporation Bank, Nellore in connivance with Sri. Pothi Naidu. Considering the above facts that has come on record the DA has observed that the said acts of the

Petitioner are highly objectionable, detrimental to the interest of the bank and also tarnished the image of the bank in the eyes of public/ customers, and from his above acts he has shaken the confidence of the bank in his integrity and honesty and he has become unreliable and undependable. The Disciplinary Authority has further stated that though the Petitioner is from the lower category of the employees in the Bank the trust and trustworthiness of every person employed in the bank is paramount for the survival and existence of the bank and after losing confidence in his integrity and honesty, the bank which is dealing with public money cannot be expected to continue in its services the employees like the Petitioner and the Disciplinary Authority was also convinced that though Sri. Pullaiah is not having serious bad records in the past, he is of the view that the said misconduct was sufficient enough to award him the severe punishment and also of the view that the proposed punishment was in no way disproportionate to the gravity of the misconduct committed by him and proved during the enquiry. As such, he had confirmed the proposed punishment and passed the Order for committing the gross misconduct of "doing acts prejudicial to the interest of the Bank" vide Cl.5 (i) of the Bipartite Settlement (Memorandum of Settlement) dated 10.04.2002. That the Petitioner submitted an Appeal to the Appellate Authority vide his letter dt. 10.05.2011. Regarding the Petitioner's contention that the Personal hearing was given to him by the Appellate Authority on 26.07.2011 and there he clearly highlighted the inconsistencies in the findings of the Disciplinary Authority and that despite his pleadings, the Appellate Authority without application of mind, without observing the inconsistencies apparent on record, merely relied on the conclusions of the Disciplinary Authority and confirmed the punishment imposed by the Disciplinary Authority vide his Order with Ref. No. 016/ PD:IRD(W)/DA/Dt. 5.1.2012 is nothing but the incorrect and misleading claims. The Appellate Authority after carefully going through the relevant records of the case had observed that the Charge held proved against the Petitioner is very serious in nature and after discussing his observations on the developments and facts that has come on record. The Appellate Authority has further observed that the Petitioner's contentions of defence are only an afterthought and the appeal preferred by the Petitioner against the order of the Disciplinary Authority has got no merits and does not deserve any consideration. Finally the Appellate Authority has confirmed that he was satisfied that there were sufficient evidence on record to sustain the charge for which the Petitioner had been held guilty and the act of misconducts committed by the Petitioner warranted exemplary punishment, further the Appellate Authority also confirmed that the punishment imposed by the Disciplinary Authority is fair and reasonable and the same is not disproportionate to the gravity of the misconduct. Accordingly the Appellate Authority concurred with punishment imposed by the Disciplinary Authority and opined that there is no reason to interfere with the Decision of the Disciplinary Authority and disposed off the appeal of the Petitioner vide his Order dated 05.01.2012. All of the grounds that are urged by the Petitioner are twisted to bury the facts that are already established in the departmental enquiry and also to mislead the Tribunal. Since it is already established in the enquiry that there was single Officer in the branch during the period 09.03.2009 to 17.04.2009 and Mr. Rajesh, AMRD was holding the ATM cards and pin mailers on his table during the working hours for disbursing to the customers and the Petitioner alone was the attendar in the branch and had access to those items, that too when Mr. Rajesh AMRD was busy with his agricultural loans/ customers. It was also established that in the absence of other official who is familiar with the activation of ATM cards and in order to give good customer service, the branch used to depend mainly on Mr. Rajesh, AMRD whenever his services were available, since he was having the knowledge about the operations such as flagging/ activation of ATM cards. Further it has come on record that there was some procedural lapse in the branch while handling the process of ATM cards lagging/ activation. Since Mr. Rajesh AMRD was the only official knowing the process of flagging activation of the ATM cards and his services to the branch as an AMRD was available for 4 days in a week, in most of the cases the flagging/ activation was done before the delivery of ATM cards to the customers. Further, since Mr. Rajan the joint custodian of the branch was on long leave during March/ April, 2009 that has come on record vide MEx 16, and during that period the ATM cards along with the PIN mailers when kept outside for activation purpose by Mr. Rajesh, AMRD the said 4 ATM cards along with the PIN mailers were removed stealthily by the Petitioner taking the advantage of his position in the branch/ the procedural lapses of the branch and subsequently withdrawn the amount through ATM, Corporation Bank, Nellore along with Mr. Pothi Naidu as captured in the footage / images provided by the Corporation Bank, Nellore that has come on record vide MEx 7. The plea that the Petitioner had admitted that he has visited the ATM is not correct, it was proved during enquiry proceeding. The veracity of the document M Ex.13 has been challenged by the Petitioner is an afterthought and untenable. Petitioner's claim that his son was not produced during enquiry as Management witness to prove that the remitter of Rs.12000/- on 16.5.2010. But, it is in his hands to rebut the charge made by the Management, instead Petitioner did not do so for the reasons best known to him. Hence, it is prayed to reject the relief sought by the Petitioner.

4. Petitioner filed Photostat copies of several documents i.e., suspension order charge sheet, enquiry notice, enquiry proceeding, enquiry report, evidence chart, show cause notice, explanation to show cause notice, proposal for dismissal, proceedings of Disciplinary Authority, order of Disciplinary Authority, his appeal against dismissal order, proceedings of Appellate Authority, order of Appellate Authority. On the other hand, Respondent also filed photocopies of documents that are filed by the Petitioner.

5. Heard arguments of Learned Counsel for Respondent as well as perused written arguments.

6. **On the basis of rival contentions and pleadings of both the parties, following issues emerge for determination:-**

I Whether the Departmental Enquiry held against the Petitioner is legal and valid?

- II. Whether the action of the Respondent Management of Syndicate Bank in terminating the services of Petitioner Sri Ch. Pullaiah, Ex-Attendar is legal and justified?
- II. To what relief the Petitioner is entitled?

Findings:-

7. **Point No. I:** The Departmental Enquiry held against the Petitioner by Respondent Management has been held legal and valid vide order dated 27.3.2023 of this Court.

Thus, Point No.1 is decided accordingly.

8. **Point No. II:** In this case Petitioner who was working as an attendar was charged for having stolen/stealthily removed four undelivered ATM cards and Pin mailers from the branch and thereafter he has withdrawn an amount of Rs.12000/- from the accounts of the customers i.e., S/Sri J. Mohan Rao, T. Bhaskar, Ch. Venkateswarlu and Ms. Syed Naheed through using ATM cards of the customers unauthorizedly on 10.4.2009. A charge sheet was served to the Petitioner and Departmental Enquiry was conducted against the Petitioner and in that enquiry he was held guilty of the charges. The Petitioner has been afforded ample hearing opportunity in the enquiry proceeding. Disciplinary Authority has imposed the punishment of dismissal from service to the Petitioner after considering findings of the Enquiry Officer.

9. Petitioner has taken the plea that there is no evidence on the record that the Petitioner had access to the ATM cards those were under safe custody and there is no eye witness of incident of stealing the ATM Cards from the safe custody or from the custody of Mr. G. Rajesh, AMRD under whose custody the ATM cards were kept. Petitioner claims that allegation against the Petitioner of stealing or removing the ATM cards/Pin mailers from Bank is not proved with any documentary or oral evidence.

10. On the other hand, Respondent contended that it has already been established in the enquiry that there was Single Officer in the branch during the period from 9.3.2009 to 17.4.2009 and Mr. Rajesh, AMRD was holding the ATM cards and pin mailers on his table during the working hours for disbursing to the customers and the Petitioner alone was the attendar in the branch at that time and had access to those items. When Mr. Rajesh AMRD was busy with his agricultural loans/customers, the Petitioner has stolen the alleged ATM cards and pin mailers from the custody of Mr. Rajesh. The Respondent further contended that it is well established in the Departmental Enquiry during the chief and cross examination of the Management witnesses that Sri S. Subbarayulu, the then Branch Manager of the branch was single officer and that branch was provided with the services of AMRD, Sri G. Rajesh for four days in a week. The branch used to depend mainly on Mr. Rajesh, AMRD and whenever required his services were availed as he has knowledge and operation of the computer such as, flagging/ activation of ATM cards. Further, it is contended that Mr. Rajan was the joint custodian of the ATM cards and he was on long leave during the period from March to April, 2009, and during that period, the ATM cards along with pin mailers were kept outside for activation purpose by Mr. Rajesh and the said four ATM cards along with pin mailers were removed stealthily by Sri Ch. Pullaiah taking advantage of his position in the branch and procedural lapses of the branch and he has withdrawn the amounts through ATM, Corporation Bank, Nellore. It is submitted that the Video footage and images provided by the Corporation Bank, Nellore with regard to the above ATM transactions are MEx.7 is the evidence of withdrawal of amount by Petitioner by using stolen ATM cards. Further, it is contended that the Petitioner has admitted that he had visited the ATM machine on 10.4.2009 along with his friend but he has put false explanation that out of curiosity to know about the procedure of withdrawal of money from ATM and mainly it is not established that he has withdrawn amount from the ATM machine. But the Petitioner is cleverly concealing the truth. Further it is contended that while observing the said footage or images captured on 10.4.2009 at the relevant point of time, it was seen that the Petitioner along with Sri Pothi Naidu were together there, and the said amount was withdrawn. The Management witness has stated and proved this fact in his evidence. Further it is also contended that the Petitioner has admitted the fact that he had withdrawn the said amount with the help of Sri Pothi Naidu, in his written submission.

11. In view of the submissions of both the parties perused the record, I perused the documents and enquiry proceeding along with the enquiry report. I am of the view that no fault of any nature can be noted in the enquiry proceeding for more than one reason. The Petitioner was given full and fair opportunity at every stage of proceeding which he availed and he never raised any kind of prejudice of any nature to him before the Enquiry Officer. Further Petitioner received all the papers and documents filed by and relied upon by the Respondent bank in support of the charge sheet and Petitioner also filed reply. Petitioner has cross examined the Management witnesses and also examined his witnesses in defence. Thereafter, Enquiry Officer after examining the whole evidence collected during the enquiry, has submitted his reasoned report holding the Petitioner guilty of the charges. Therefore, no case is made out with regard to procedural lapses or any violation of principles of natural justice thereby causing any prejudice to the rights of the Petitioner.

12. The Petitioner Sri Ch. Pullaiah vide letter dated 29.7.2009 MEx13 has admitted the fact being reproduced verbatim that, “ **being an uneducated person, I do not know how to operate the ATM card and how to withdraw the cash by myself..... Sri Vinjam Pothi Naidu is also one of my friends who had instigated me to**

lift the cards from the branch so that he will help in withdrawing the cash through ATM as he is having knowledge of ATM operation. This idea provoked me and I have lifted 4 ATM cards from the branch along with the pin mailers on 9.4.2009 without seeing or verifying the names and balances in the accounts. During that time, when Mr. Rajesh's attention was diverted to some other branch work, I have lifted the above 4 ATM cards belonging to the persons stated above. As per the suggestion of Mr. Naidu we both went to Nellore on subsequent day, i.e., on 10.4.2009 which was Good Friday holiday and with the help of him, I have withdrawn cash 5 times with the amounts Rs.5000/-, Rs.5000/-, Rs.1000/-, Rs.800/- and Rs.200/- using the 4 ATM cards from Corporation Bank ATM, Nellore on different times on the same day without the knowledge of account holders and utilized the amounts for my personal urgent needs. I have shared some of the amounts with Sri V. Pothi Naidu. I have not informed about the withdrawals to the branch officials immediately. When the matter was brought to my notice on 13.5.2009 by our Manager Sri S. Subbarayulu showing the photographs of ATM, Corporation Bank, Nellore I confessed and reimbursed entire amount of Rs.12000/- by cash on 15.5.2009 (late cash) and adjusted to suspense account by the branch on 16.5.2009." He also admitted that, "... no other staff members of the branch either aware of the above incident or involved in the above unauthorized transactions. I owe fully the entire responsibility of the above unauthorized act. Because of my bad financial status during that period, I was forced to do such act which I am repenting very much now and I assure you sir that I will not commit such mistake in future."

13. Thus, in view of the letters dated 29.7.2009, it manifests that the Petitioner has admitted his guilt of stealing four ATM cards from the branch and has withdrawn the amount in total of Rs.12000/- using ATM card unauthorizedly from the customers account with the help of his friend. The Management witness MW1, MW2 has also proved the charges of stealing of four ATM cards and Pin mailers on 9.4.2009 by the Petitioner. The statement of MW1 and MW2 has also been corroborated with the documentary evidence i.e., CCTV footage, admission of the guilt by the Petitioner vide letters dated 29.7.2009. However, the explanation furnished by the Petitioner for misconduct of stealing four ATM cards from the branch on 9.4.2009 and withdrawing the amounts unauthorizedly using ATM cards is not found satisfactory and was not acceptable. Thus, the charges of stealing the four ATM cards and Pin mailers unauthorizedly withdrawing amount has been proved by the evidence collected during the enquiry.

14. The Petitioner has taken plea that there is no ample evidence on record against the Petitioner to prove charges and the punishment is not based on record/evidence adduced during the enquiry. Petitioner contended that the Respondent No.2 has failed to appreciate the contents of the appeal and mechanically disposed the appeal with a close mind. In this context, Respondent contended that the Respondent Bank collect and handle public money, can not afford to retain a person over whom it does not have confidence on his honesty and integrity. During the enquiry, it has been proved that Petitioner committed the breach of trust, therefore, the punishment imposed upon the Petitioner i.e., dismissal from the service of the bank is not disproportionate to the gross misconduct committed by him. There is no ground to interfere with the punishment imposed by the Disciplinary Authority, it was confirmed by the authority.

15. On the basis of perusal of the records the facts and circumstances clearly indicates that none other than Petitioner has stolen /removed four ATM cards of Bank customers with Pin mailers from the branch on 9.4.2009 are as follows:-

- a) That the Petitioner was posted at branch as an attendar and he was on duty on the date of incident i.e., 9.4.2009.
- b) That at the time of incident of missing ATM card from Branch, there were only two employees i.e., the Branch Manager and the Petitioner.
- c) That the Petitioner along with Sri V. Pothi Naidu went to ATM Room of Corporation Bank, Nellore and had withdrawn the amount of Rs.12,000/- from the customers accounts by using stolen ATM cards unauthorizedly.
- d) That the CCTV footage obtained by Branch Manager from concerned branch goes to show that at the relevant point of time and date i.e., on 10.4.2009, when the money has been withdrawn from ATM by using stolen ATM cards from the accounts of the customers, in the CCTV footage the Petitioner has been identified along with his friend, Sri Pothi Naidu present at ATM Room and he failed to furnish any satisfactory explanation as to why at that time and date he was present at ATM along with Sri Pothi Naidu.
- e) That the Petitioner has submitted a letter dated 29.7.2009 to Investigating Officer, Vigilance, Hyderabad, where he has admitted his said conduct that he has stolen the four ATM cards with Pin mailers from the branch on 10.4.2009 and on the next day he has withdrawn the amount of Rs.12000/- in total from the customers accounts by using stolen ATM cards unauthorizedly.
- f) However, the Petitioner's son has returned the money to the Bank which was withdrawn by the Petitioner unauthorizedly by using stolen ATM cards whereas, the Petitioner failed to furnish plausible explanation as to why his son was in possession of that money which has been withdrawn on 10.4.2009 by Petitioner from customers accounts through ATM cards.

Thus, in view of the above facts and circumstances of the case, I stolen/removed four ATM cards from the branch on 9.4.2009 and later on he has unauthorizedly withdrawn the money from the accounts of customers by using those stolen ATM cards

16. The charge framed against the Petitioner has been held proved in the domestic enquiry that was serious in nature. The Petitioner has been held guilty of charge of stealing 4 ATM cards from the branch while he was on duty in the capacity of an attendar and he has withdrawn the amount of Rs.12,000/- from the customers accounts through using stolen ATM cards unauthorizedly. The misconduct committed by the Petitioner was of such a nature which affects his integrity and honesty. Since he has committed breach of trust, therefore, Respondent being commercial bank can not afford to retain such person as an employee which does not have confidence on his honesty and integrity. Therefore, the punishment imposed upon the Petitioner, of the dismissal from service of bank can not be said to be disproportionate or not to commensurate to the charge.

As regards justification to interfere in the order of punishment imposed by the Disciplinary Authority in case of misconduct, Hon'ble Apex Court has laid down settled principle as follows:-

In the case of State Bank of Bikaner and Jaipur versus Nemi Chand Nalwaya, in Civil Appeal No. 5861 of 2007, 2011 (4) SCC 584 decided on March 1, 2011, Hon'ble Apex Court have held:-

"B. Labour Law- Domestic/Departmental enquiry -Judicial review of findings of disciplinary authority -Scope - Restated -Held, courts will not interfere except where findings are based on no evidence or where they are clearly perverse -Test of perversity i.e. whether authority concerned could have reasonably arrived at such conclusion or finding based on material on record is to be applied- Courts will interfere if principles of natural justice or statutory regulations have been violated or if order is arbitrary, capricious, mala fide or based on extraneous considerations.

7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations."

In the case of Divisional Controller, KSRTC (NWKRTC) Versus A.T. Mane (2005) 3 SCC 254, Hon'ble Apex Court have held:-

"8. This Court in the case of State of Haryana v. Ratan Singh which is also a case arising out of non-issuance of ticket by a conductor held thus:

"In a domestic enquiry all the strict and sophisticated rules of the Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible, though departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Evidence Act. The essence of judicial approach is objectivity, exclusion of extraneous materials or considerations, and observance of rules of natural justice. Fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment, vitiate the conclusion reached, such a finding, even of a domestic tribunal, cannot be held to be good. The simple point in all these cases is, was there some evidence or was there no evidence not in the sense of the technical rules governing court proceedings but in a fair common-sense way as men of understanding and worldly wisdom will accept. Sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny by court, while absence of any evidence in support of the finding is an error of law apparent on the record and the court can interfere with the finding.

In the present case, the evidence of the inspector is some evidence which has relevance to the charge and the courts below had misdirected themselves in insisting on the evidence of the ticketless passengers. Also, merely because their statements were not recorded, the order for termination cannot be invalid. In fact, the inspector tried to get their statements but the passengers declined. Further, it was not for the court but for the Tribunal to assess the evidence of the co-conductor."

In the case of LIC OF INDIA Vs. R. DHANDAPANI, (2006) 13 SCC 613, the Hon'ble Apex Court have held:-

"8. In recent times, there is an increasing evidence of this, perhaps well-meant but wholly unsustainable, tendency towards a denudation of the legitimacy of judicial reasoning and process. The reliefs granted by the courts must be seen to be logical and tenable within the framework of the law and should not incur and justify the criticism that the jurisdiction of the courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain the integrity of legal reasoning and the legitimacy of the conclusions. They must emanate

logically from the legal findings and the judicial results must be seen to be principled and supportable on those findings. Expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability. “

In view of the law laid down by the Hon'ble Apex Court as discussed above, the Enquiry Officer has found the Petitioner guilty of charges after appreciation of evidence of witness recorded during the enquiry and documentary evidence and submission made by delinquent employee. Therefore, it can not be said that the finding of the Enquiry Officer / Disciplinary Authority is based on no evidence. The principle of sufficiency of the evidence is not applicable to the Departmental Enquiry Proceeding. The rule of preponderance is applicable to prove charge against delinquent employee in Departmental Enquiry. Therefore, the plea of the Petitioner that there is no ample evidence against him in support of charge in this matter is not tenable. Thus, I find no occasion to interfere in the impugned order of Disciplinary Authority of imposition of punishment of dismissal to Petitioner from service.

17. Therefore, in view of the fore gone discussion and law laid down by the Hon'ble Apex Court as discussed above, the order of dismissal passed against the Petitioner can not be faulted with nor it can be said to be in any way disproportionate to the gravity of the charges. In other words, punishment of dismissal was proportionate and commensurate to the gravity of charges and I find no merit in the petition. Thus, the action of the Management of Syndicate Bank, Nellore in terminating the services of Sri Ch. Pullaiah, Ex-Attendar is legal and justified.

Thus, Point No. II is decided accordingly.

18. **Point No. III:** In view of the fore gone discussion and law laid down by the Hon'ble Apex Court, I am of the considered view that the Petitioner is not entitled to get any relief and this petition is found to be baseless, hence, liable to be dismissed.

Therefore, Point No.III is decided accordingly.

AWARD

In view of the fore gone discussion and finding arrived at Points No. I,II & III, the action of the management of Syndicate Bank, Nellore in terminating the service of Sri Ch. Pullaiah, Ex-Attendar is held legal and justified. The workman is not entitled to any relief as prayed for. Petition stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 9th day of February, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 4 अप्रैल, 2024

का.आ. 663.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स कोटक महिंद्रा बैंक लिमिटेड के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, II-दिल्ली के पंचाट (16/2018) प्रकाशित करती है।

[सं. एल-12025/01/2024- आई आर (बी-1)-142]

सलोनी, उप निदेशक

New Delhi, the 4th April, 2024

S.O. 663.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.16/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -II Delhi* as shown in the Annexure, in the industrial dispute between the management M/s. Kotak Mahindra Bank Limited and their workmen.

[No. L-12025/01/2024- IR(B-I)-142]

SALONI, Dy. Director

ANNEXURE

SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

I.D. No. 16/2018

Sh. Rohit Kumar, S/o Sh. Satya Narayan Keshari,

Through Audhyogik Krantikari Karamchari Union (Regd.)

F- 308, Karampura, New Delhi- 110015.

VERSUS

M/s. Kotak Mahindra Bank Limited

F-19/12, Sector-08, Rohini, Delhi- 110085.

AWARD

This is the claim filed by the workman U/S 2A(2) of the I.D Act against their illegal termination. As per workman he was working with the management as sales person, but, the management has given him the designation of Deputy Manager Sales. He has been working with the management since 18.06.2016 at the last drawn wages of 23,000/- per month. Till his termination he used to work sincerely and honestly. When the workman has demanded his earned wages for the month of April 2017, management had terminated him on 18.05.2017. His termination was illegal in violation of Industrial law.

Respondent had appeared and filed the objection. First of all management had taken the objection that the claimant has not given within the definition of workman as such the claimant is not maintainable. Moreover this tribunal has no territorial jurisdiction, since the management and the workman is agreed through contract employment, there jurisdiction is in Mumbai court. Management denied that the workman is diligent worker he has not shown any improvement, despite, giving the several opportunities in this regard and this has been reflected to the E-mail sent to him in this regard.

Issues have been framed vide order dated 14.12.2018. Workman is asked to examine the witness in support of his claim.

It Reflected from the record, inspite of several opportunities given to the workman since 2019, workman has not examined any witness, rather than after closing his evidence, management has examined one Nagendra Prasad.

In the absence of any witness examined by the workman to prove his claim, claim of the workman is resulted into failure. Claim of the claimant stands dismissed. Award is accordingly passed. A copy of this award is sent to the appropriate government for notification as required U/S 17 of the ID Act 1947. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2024

का.आ. 664.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, II - दिल्ली के पंचाट (167/2021) प्रकाशित करती है।

[सं. एल-12025/01/2024- आई आर (बी-I)-145]

सलोनी, उप निदेशक

New Delhi, the 4th April, 2024

S.O. 664.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 167/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -II Delhi* as shown in the Annexure, in the industrial dispute between the management Northern Railway and their workmen.

[No. L-12025/01/2024- IR(B-I)-145]

SALONI, Dy. Director

ANNEXURE

SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOV. INDUSTRIAL-TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

ID.No. 167/2021

Sh. Raghubir, S/o Sh. Ramji Lal

Through- Nitika (ARW), Chamber No. 95/95,

BGS Block, Tis Hazari Courts, Delhi-110054.

VERSUS

- 1. The Director, Northern Railways,**
Bhavbhuti Marg, Ratan Lal Market, Kamla Market,
Ajmeri Gate, New Delhi-110006.
- 2. The Director, East Central Railways,**
Samastipur Division, Station Road, Railway Colony,
Samastipur, Bihar-848101
- 3. Hughes & Hughes Chem Ltd.,**
Flat No. 05, R-10, Nehru Enclave, New Delhi-110019.

ORDER

The claimant has filed the application invoking the provision of 2A of the Id. Act alleging illegal termination of his service by the mgt no. 3 i.e Hughes & Hughes Chem Ltd., with a prayer for reinstatement with continuity with service with full back wages and other consequential benefits including equal pay for equal work for retro respective effect.

The management-3 by filing written statement challenged the maintainability of the proceeding and denying the employee and employer relationship. The management-3 i.e Hughes & Hughes Chem Ltd., filed written statement denying to have appointed the claimant at any point of time. The mgt no. 1 has been proceeded ex-parte. During the pendency of the proceeding a proposal for conciliation and an amicable settlement was given by the parties and pursuant to conciliation the claimant agreed to received Rs. 40,000/- from the mgt no. 3 towards his full and final settlement.

The claimant gave a statement to the effect that he has received the above said amount from the mgt no.- 3 and thus, he has no dispute/claim against any of the management of this proceeding. Hence, settlement is being passed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947.

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2024

का.आ. 665.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, II - दिल्ली के पंचाट (180/2018) प्रकाशित करती है।

[सं. एल-12025/01/2024- आई आर (बी-I)-144]

सलोनी, उप निदेशक

New Delhi, the 4th April, 2024

S.O. 665.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 180/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -II Delhi* as shown in the Annexure, in the industrial dispute between the management State Bank of India and their workmen.

[No. L-12025/01/2024- IR(B-I)-144]

SALONI, Dy. Director

ANNEXURE

**SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-TRIBUNAL CUM –
LABOUR COURT NO. II, NEW DELHI**

ID.No. 180/2018

Sh. Kushal Kumar Sharma, S/o Sh. Gopal Sharma,
Through-Progressive National Labour Union,
Seat No. 11-A, Near Treasure Gate, Tis Hazari Court,
Delhi- 110054.

VERSUS

- 1. The Branch Manager,**
State Bank of India, Padam Nagar, Kishan Ganj, Delhi-110007,
- 2. The Managing Director,**
State Bank of India, Head Office- Sansad Marg, New Delhi- 110001,
- 3. The Manager,**
State Bank of India Card & Payment Services Pvt. Ltd.
401, 402, 403, 4th Floor, Aggarwal Milian Tower, Netaji Subhash Place,
Delhi-110034.
- 4. The Director/Managing Director,**
M/s Innovsource Services Pvt. Ltd. Regional Office A-3,
Kailas Industrial Complex, Park Site Vikhroli,
West Mumbai- 400079.

AWARD

This is an application of U/S 2A of the Industrial Disputes Act (here in after referred as an Act). Claimant had stated in their claim statement that he had been working with the respondent since 29.04.2016 at the post of Relationship Executive at the last drawn salary Rs. 14, 147/- Per month. He had been doing his work with diligently but he has not been paid minimum wages as well as legal facilities. On 05.12.2017 he was terminated without any reason. He has sent the demand letter but he has not been taken on duty. He had exhausted legal remedy i.e. going to the conciliation officer, but, no result was yielded. Hence he has filed the claim.

Management had appeared and filed the WS. He had stated that the claim is not maintainable either on facts or in the eyes of law and is liable to be dismissed as the claimant has not come before this court with clean hand and has presented a incorrect and disrupted version of the facts. The Claimant is on the rolls of **M/S Innove Source Limited** which provides manpower facilities to SBI cards. He submit that claim of the claimant is not maintainable and is liable to be dismissed.

On 18.02.2020, issues have been framed. Claimant is asked to prove his case. However, despite providing a number of opportunities, claimant has not turned up to prove his claim. His evidence was closed. Management have appeared and examined the one witness in support of his contention. As the claimant has not turned up for proving his case, his claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2024

का.आ. 666.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीपीडब्ल्यूडी कर्मचारी संघ के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, II - दिल्ली के पंचाट (संदर्भ 12/2020, श्री किशोर, 13/2020, श्रीमति गिराज, 14/2020, मो. मोती. 15/2020, 16/2020, श्री प्रभु दयाल, 17/2020, श्री. जदीश, 18/2020, श्रीमति रानी दयाल वर्मा, ट्रफ सीपीडब्ल्यूडी कर्मचारी यूनियन, गुडगांव हरियाणा) प्रकाशित करती है।

[सं. एल-12025/01/2024- आई आर (बी-I)-143]

सलोनी, उप निदेशक

New Delhi, the 4th April, 2024

S.O. 666.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 12/2020, Sh. Kishore, 13/2020, Smt. Giraj, 14/2020, Mohd. Moti 15/2020, 16/2020, Sh. Prabhu Dayal, 17/2020, Sh. Jadish, 18/2020, Smt. Rani Dayal Verma, Trough CPWD Karmchari Union, Gurgaon Haryana) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -II Delhi* as shown in the Annexure, in the industrial dispute between the management CPWD Karmchari Union and their workmen.

[No. L-12025/01/2024- IR(B;I)-143]

SALONI, Dy. Director

ANNEXURE

SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

I.D. No.12/2020

Sh. Kishore, S/o Sh. Rega,

Through – The President Sh. Hukum Chand,
CPWD Karamchari Union, Babu Lal Ji Complex,
Shop No. 04, Gurgaon Road, Opposite Bus Stand,
Gurgaon Haryana.

I.D. No.13/2020

Smt. Giraj, S/o Sh. Kishori,

Through – The President Sh. Hukum Chand,
CPWD Karamchari Union, Babu Lal Ji Complex,
Shop No. 04, Gurgaon Road, Opposite Bus Stand,
Gurgaon Haryana.

I.D. No.14/2020

Mohd. Moti, S/o Mohd. Mohanidin,

Through – The President Sh. Hukum Chand,
CPWD Karamchari Union, Babu Lal Ji Complex,
Shop No. 04, Gurgaon Road, Opposite Bus Stand,
Gurgaon Haryana.

I.D. No.15/2020

Through – The President Sh. Hukum Chand,
CPWD Karamchari Union, Babu Lal Ji Complex,
Shop No- 04, Gurgaon Road, Opposite Bus Stand,
Gurgaon Haryana.

I.D. No.16/2020

Sh. Prabhu Dayal, S/o Sh. Reega,

Through – The President Sh. Hukum Chand,
CPWD Karamchari Union, Babu Lal Ji Complex,
Shop No. 04, Gurgaon Road, Opposite Bus Stand,
Gurgaon Haryana.

I.D. No.17/2020**Sh. Jagdish, S/o Sh. Durga Pal,**

Through – The President Sh. Hukum Chand,
CPWD Karamchhari Union, Babu Lal Ji Complex,
Shop No. 04, Gurgaon Road, Opposite Bus Stand,
Gurgaon Haryana.

I.D. No.18/2020**Smt. Rani Dayal Verma,**

Through – The President Sh. Hukum Chand,
CPWD Karamchhari Union, Babu Lal Ji Complex,
Shop No. 04, Gurgaon Road, Opposite Bus Stand,
Gurgaon Haryana.

VERSUS

1. **The Director General C.P.W.D.**
Nirman Bhawan, New Delhi – 110001.
2. **The Executive Engineer CPWD, Civil, T Division,**
Sarojni Nagar, New Delhi – 110023.
3. **Rawat (Contractor)**
C/o The Executive Engineer CPWD, Civil, T Division,
Sarojni Nagar, New Delhi – 110023.

AWARD

By this composite order, I shall dispose off these seven claims application filed by the workmen U/S 2A of the I.D Act. The workmen in their claim statement had stated that they have been working with the management since 2002, 2003, 2004 and 2005 at the post of mason, sewarman, beldar and safai karamchhari. However, from the initial date of joining, they were being treated as a daily rated/casual/muster roll workers and were being paid fixed wages and their wages were never revised from time to time under the minimum wages Act by the appropriate government while their counterparts doing the identical work and the work of the same value but was being treated as regular employees and were paid salary in proper pay scale and allowance. They also enjoy other facilities like uniform, P.F., Medical Leave, CL, Gazette/Festival/Restricted Holidays. Although, the workmen supposed to be regularized since their initial date of joining but the management has never regularized them till now. Instead of regularizing their services, the management terminated them from their services. They had filed the claims with the Labour Commissioner, but no result have been yielded. Hence, they had filed their claim U/S 2 (A) of the I.D Act.

Management-3 was proceeded ex-parte vide order dated 07.04.2022. Management- 1 & 2 had appeared and filed their WS denying the relationship of employer and employee. Issues have been framed. Workmen are asked to file their evidence in support of their claims. However, the AR for the workmen had stated that he has no contract with the workmen since long as such he is unable to file the affidavit in evidence.

In these circumstances, when the workmen have not led any evidence, then the claims of the workmen are resulted into failure. Hence, the claims of the workmen stand dismissed. Award is accordingly passed. A copy of this order is placed in each of the file. A Copy of this award is sent to the appropriate government for notification U/S 17 of the I.D Act. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 667.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चंडीगढ़- II के पंचाट (820/2005) प्रकाशित करती है।

[सं. एल-41012/279/2003- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2024

S.O. 667.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 820/2005) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-II* as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen.

[No. L-41012/279/2003- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 820/2005

Registered on:-17.05.2004

Sh. Hari Krishana Sharma, Secretary Uttariya Railway Karamchari Union, R/o EF-430, Krishan Nagar, Nehru Garden Road, Jalandhar.

.....Workman

Versus

General Manager, Northern Railway Baroda House, New Delhi.

.....Respondent/Management

AWARD

Passed on:-13.11.2023

Central Government vide Notification No.L-41012/279/2003-IR(B-I), Dated 27.04.2004, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether action of Northern Railway Management in denying the pay at par with his junior and consequential benefits of gratuity, commutation of pension, medical facility and revision of pension is illegal and unjustified? If so, to what relief the concerned workman is entitled to and from which date?

1. The brief facts relevant for deciding this claim petition as per the claim of workman are that the workman had joined Railway Service on 3.9.1954 on the post of traffic signaller having avenues of promotion in Station Masters Cadre. The workman was promoted to the post of Assistant Station Master Grade-I in the year 1956 and was further promoted to the post of Assistant Station Master Grade-II(Scale Rs. 425-640) w.e.f. 3.8.1973. The workman being a social worker engaged in bona fide trade union activities, not only for colleague workmen but was also called upon to assist officers of the Railway as defence counsel for the charge-sheeted railway servants for representing the railway servants before Labour Court and in some cases the Central Administrative Tribunal. In a record number of cases of charge-sheets issued on the report of Railway's Vigilance Directorate and CBI, the charged railway servants could prove themselves innocent with the assistance they got from the workman. The workman was implicated in a number of false cases at the instance of CBI and Railway Vigilance. The workman submitted a representation to the then Railway Minister who directed for a fact finding enquiry the enquiry was conducted by a Traffic Inspector who submitted a report holding that the workman was implicated falsely out of vindictiveness by the Railway Vigilance department. On 3.9.1988 the workman was placed under suspension through a telephonic order. There were orders issued by the Railway Board to revise the pension of Railway Servants if it fell below 50% of the scale of the post last held by such railway servants to be revised to 50% of the revised scale of the post last held. The workman has held his last post of Station Superintendent Grade Rs. 2375-3500. The scale of the said post was revised to the minimum of Rs.11,000/- in the year 1996. As such the pension of the workman was to be revised to Rs. 5500/- plus D.A w.e.f. 1.1.1996 but the management has revised it to Rs. 2807/- only. It is therefore, prayed that the management be directed to revise the pension and pay arrears thereof as also further pensions at revised rates w.e.f. 1.1.1995.

2. The management has filed written statement, admitted the fact that workman had joined Railway Service on 3.9.1954 on the post of Traffic Signaller having avenues of promotion in the cadre of Station Masters. At the time of restructuring in the cadre of Station Master, the workman could not be placed in the penal through modified selection because of adverse records. The workman could not be promoted to SM grade Rs.455/-Rs.700/- and further to SM Grade Rs.1600-2660/-(RPS) in his own cadre in the FZR Divn. Of Northern Railway till his transfer to the Ambala Division in 1988 as no selection was initiated during this period for S.M. The provisional pension of the workman was fixed as D & AR cases were pending against the workman @ Rs.925/- per month in Grade 1400-2300. As per Railway Board, the pension of workman was revised in accordance with the Railway Board order of PPO No.D/UMB/PEN/0194170285 was issued revising the pension w.e.f. 1.1.1996. It is therefore, prayed that workman

has no claim whatsoever with the respondent-management and the claim deserves to be dismissed on this ground alone.

3. Parties were given opportunity to lead evidence.

4. During the pendency of the proceedings before this Tribunal on 13.11.2023 the case was fixed for arguments. Learned counsel for management has submitted that the workman has not turned up for arguments since long while several opportunities have already been given to the workman for arguments. On perusal of the file, it is found that the submissions made by the learned counsel for management are true. Today also none has to come to prosecute the case on behalf of the workman which shows that the workman is not interested in adjudication of the case on merit.

5. Since the workman has neither put his appearance for long and he has left his case unattended, as such, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present reference for the non-prosecution of workman.

6. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 668.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **चंडीगढ़- II** के पंचाट (1227/2005) प्रकाशित करती है।

[सं. एल-41011/3/2005- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2024

S.O. 668.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.1227/2005) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-II* as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen.

[No. L-41011/3/2005- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 1227/2005

Registered on:-19.12.2005

Sh. Hari Krishana Sharma, R/o EF-430, Krishan Nagar, Nehru Garden Road, Jalandhar.

.....Workman

Versus

General Manager, Northern Railway Baroda House, New Delhi.

.....Respondent/Management

AWARD

Passed on:-13.11.2023

Central Government vide Notification No.L-41011/3/2005-IR(B-I), Dated 21.11.2005, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of Northern Railway in denying to the workman Sh. H.K. Sharma wages for the periods from 3.9.88 to 2.1.91, October 91 to 5.2.92, 18.3.92 to 4.4.92, 22.5.92 to 23.6.92, 22.8.92 to 31.12.93 Transfer Allowance, Posting Allowance, Gratuity, Communication Value

of Pension, Revision of Pension as per Railway Board Orders, Medical Facilities and other benefits consequential to his service and re-opening of disciplinary cases after 12 years is illegal and unjustified? If so, to what relief the workman is entitled to?

1. The brief facts relevant for deciding this claim petition as per the claim of workman are that the workman had joined Railway Service on 3.9.1954 on the post of traffic signaller having avenues of promotion in the cadre of Station Masters. The workman was promoted to the post of Assistant Station Master Grade-I in the year 1956 and was further promoted to the post of Assistant Station Master Grade-II(Scale Rs.425-640) w.e.f. 3.8.1973. The workman being a social worker engaged in bona fide trade union activities, not only for colleague workmen but was also called upon to assist officers of the Railway as defence counsel for the charge-sheeted railway servants for representing the railway servants before Labour Court and in some cases the Central Administrative Tribunal. In a record number of cases of charge-sheets issued on the report of Railway's Vigilance Directorate and CBI, the charged railway servants could prove themselves innocent with the assistance they got from the workman. The workman was implicated in a number of false cases at the instance of CBI and Railway Vigilance. The workman submitted a representation to the then Railway Minister who directed for a fact finding enquiry the enquiry was conducted by a Traffic Inspector who submitted a report holding that the workman was implicated falsely out of vindictiveness by the Railway Vigilance department. On 3.9.1988 the workman was placed under suspension through a telephonic order. There were orders issued by the Railway Board to revise the pension of Railway Servants if it fell below 50% of the scale of the post last held by such railway servants to be revised to 50% of the revised scale of the post last held. The workman has held his last post of Station Superintendent Grade Rs.2375-3500. The scale of the said post was revised to the minimum of Rs.11,000/- in the year 1996. As such the pension of the workman was to be revised to Rs.5500/- plus D.A w.e.f. 1.1.1996 but the management has revised it to Rs.2807/- only. It is therefore, prayed that the management be directed to revise the pension and pay arrears thereof as also further pensions at revised rates w.e.f. 1.1.1995.

2. The management has filed written statement, admitted the fact that workman had joined Railway Service on 3.9.1954 on the post of Traffic Signaller having avenues of promotion in the cadre of Station Masters. At the time of restructuring in the cadre of Station Master, the workman could not be placed in the penal through modified selection because of adverse records. The workman could not be promoted to SM grade Rs.455/-Rs.700/- and further to SM Grade Rs.1600-2660/-(RPS) in his own cadre in the FZR Divn. Of Northern Railway till his transfer to the Ambala Division in 1988 as no selection was initiated during this period for S.M. The provisional pension of the workman was fixed as D & AR cases were pending against the workman @ Rs.925/- per month in Grade 1400-2300. As per Railway Board, the pension of workman was revised in accordance with the Railway Board order of PPO No.D/UMB/PEN/0194170285 was issued revising the pension w.e.f. 1.1.1996. It is therefore, prayed that workman has no claim whatsoever with the respondent-management and the claim deserves to be dismissed on this ground alone.

3. Parties were given opportunity to lead evidence.

4. During the pendency of the proceedings before this Tribunal on 13.11.2023 the case was fixed for arguments. Learned counsel for management has submitted that the workman has not turned up for arguments since long while several opportunities have already been given to the workman for arguments. On perusal of the file, it is found that the submissions made by the learned counsel for management are true. Today also none has to come to prosecute the case on behalf of the workman which shows that the workman is not interested in adjudication of the case on merit.

5. Since the workman has neither put his appearance for long and he has left his case unattended, as such, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present reference for the non-prosecution of workman.

6. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 669.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, अशोक होटल, चाणक्यपुरी, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री सुरेश चंदर और 13 अन्य, द्वारा - अध्यक्ष, अशोक होटल मजदूर जनता यूनियन, चाणक्यपुरी, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली पंचाट(संदर्भ संख्या 127/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 04.04.2024 को प्राप्त हुआ था।

[सं. एल-42011/169/2017- आई आर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 5th April, 2024

S.O. 669.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 127/2018) of the **Central Government Industrial Tribunal cum Labour Court – I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Ashoka Hotel, Chankyapuri, New Delhi, and Shri Suresh Chander and 13 Ors., Through- The president, Ashok Hotel Mazdoor Janta Union, Chankyapuri, New Delhi**, which was received along with soft copy of the award by the Central Government on 04.04.2024.

[No. L-42011/169/2017- IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI No. 1
NEW DELHI.****ID. No. 127/2018**

Shri Suresh Chander S/o Sh. Hukum Singh and 13 Ors. Through The president, Ashok Hotel Mazdoor Janta Union, Ashok Hotel Staff Quarters, C-47, Chankyapuri, New Delhi.

Claimants

Versus

The General Manager, Ashoka Hotel, 50-B Chankyapuri, New Delhi-110021.

Management...

*Shri S.S. Upadhyay, A/R for the claimants.**Shri J. Jagadish, A/R for the management.***Justice Vikas Kunvar Srivastava (Retd.)**

(Presiding Officer)

Reference of the industrial dispute

1. The Present Industrial Dispute case is referred by the Central Government (Ministry of Labour) through its letter dated 01.01.2018 at the behest of Sh. Suresh Chander and 13 Ors. through the president, "Ashok Hotel Mazdoor Janta Union". New Delhi, for adjudication and award. The term of reference is as follows.

"Whether Sh. Suresh Chander S/o Sh. Hukum Singh and Thirteen (13) others (whose names are mentioned in Annexure A) are entitled for regularization of their services with the management of Ashok Hotel, Chankyapuri, New Delhi and wages at par with their regular counterpart working in their respective category as CPA, Drivers and Mechanic and if so what directions are necessary in this respect?"

2. The 14 claimants/workmen are enumerated here under namely :

Sl. No.	NAME	DESIGNATION	WORKING SINCE
1	Suresh Chander	CPA	29.03.2005
2	BabuLal	Driver	2009
3	Mahesh Kumar	Driver	20.09.2012
4	Hari Singh	Driver	13.09.2014
5	Dinesh Kumar	Driver	06/2014
6	Vijay Singh	Driver	19.06.2010
7	Sanjay Kumar	Driver	20.04.2010
8	Suresh Kumar	Driver	01.10.2014
9	Jalsingh	Guard DVR	1993 1996
10	Suresh Kumar	M/c/Driver	25-07-2007

11	Deepak Kumar	Driver	2008
12	Deepak Kumar	Driver	11.08.2012
13	Mukesh Kumar	Driver	01.10.2012
14	Pushpender	Driver	12.04.2012

3. This Central Government Industrial Tribunal on receiving the reference from the Central Government registered the same as ID. No. 127/2018 on 26 March, 2018. Since then the Industrial Dispute is pending before the tribunal. Sh. S.S Upadhyaya president of the 'Ashok Hotel Mazdoor Janta Union' represents the claimants/workmen concerned with the Dispute as AR. Sh. Amit Wadhwa, for the management appeared before the tribunal representing the General Manager 'Ashok Hotel' as reflects from the order dated 7th May, 2018.

Factual Matrix

4. Facts of the case, emerging out from the claim statement filed on behalf of the claimants/workmen and other materials placed before the tribunal by the Ld. A/R S.S Upadhyaya, reveals that the workmen concerned were working under the management of 'Ashok Hotel' as driver are paid salary by the management through different contractors. Members of the 'Ashok Hotel Mazdoor Janta Union' submitted their grievance regarding non regularisation of their services on permanent basis in the regular pay scale of their respective category. With an unanimous resolution of the union the cause of the concerned workmen was taken up and raised before the competent authority including court of law. Demand notice dated 20.12.2016 was served to the management but the same remained un-replied. Consequently the claim was filed by the union before the Labour Department who made the reference for adjudication through its later No.L-42011/169/2017-IR(DU) on 31.01.2018 pursuant thereto the present Industrial Dispute is registered by the tribunal. The management is a public sector unit being government organisation functioning under ITDC, Ministry of Tourism and therefore they have to follow rules and regulations including the provision of the 'Industrial Dispute Act', 1947. (Which shall here in after be addressed as 'the Act' only). The management who pays the equally circumstanced appointed on the permanent post of driver is paying them minimum wages, declared by the Delhi Government, from time to time but the present claimants/workmen are not being paid the same, which amounts to unfair labour practice. The workmen concerned are working continuously from the date of their initial joining in the management but for the purpose of payment of their wages the management has adopted the practice to engage contractors through whom the payment of wages to the concerned workmen is made. The contractors are paid commission/service charges for making the payment to the employees. They also used to pay employers share of PF and ESI of the management as such none of the contractors have to pay from their pocket because the same is reimbursed to them by the management.

The job carried over by the workmen concerned is of perennial nature as such cannot be carried over through a contract worker. The contractors through whom the work is got done by the management have no licence from the competent authority of the Labour Department of Central Government. And even the management is also not registered with Labour Department. It is alleged that the contract between management of 'Ashok Hotel' and their contractor are bogus, sham, artificial and camouflage, as such not genuine. The intention of the management behind entering such contracts is to deprive the workmen from the regular pay scale as consequential benefits at par with the regular employees of the management working with them.

Unfair Labour Practice

5. The certified standing order of the management has no provision to use the services of any employee through contractor. The certified standing orders provides that if an employee has worked in 'Ashok Hotel' continuously for 12 months he or she is entitled for regularisation of services with the management of Ashok Hotel. The workmen concerned are continuously working with the management for much more than 240 days in each calendar year, therefore, are entitled for regular job and regular pay scale with all the consequential benefits.

The workmen are engaged orally without appointment letter, only to avoid the responsibility which is also unfair labour practice. The concerned workmen discharge their duties for 8 hours through out the month except the weekly off.

Permanent vacancies are available

There is sanctioned strength for each category in the management approved by the Board of Directors and as such workers are working against the permanent vacancies in their category because the management has stopped recruitment from 2001 onwards. Workers are qualified and eligible as well as experienced for the post they hold since their initial date of joining. The management does not maintain attendance sheet and payment register.

6. On the basis of the facts pleaded herein above the claimants/workmen pray the tribunal for direction to be issued to the management to regularise their services in regular pay scale of drivers along with all other consequential benefit from the day of their initial joining and also treat them employees of Ashok Hotel for all purposes.

No defence is submitted

7. No written statement is filed on behalf of the management in defense against the statement of claim submitted by the concerned workmen/claimants. The order dated May 7, 2018 shows the appearance of Sh. Amit Wadhwa, the manager of the management, in present industrial dispute. On 7 May, 2018 in his presence the tribunal granted time to the management for filing written statement fixing 17.07.2018 for the same. The order sheet further shows that the management stopped appearing in the case. After several adjournments by the tribunal on 17.07.2018, 06.09.2018, and 12.11.2018 recorded the absence of management's representative vide order dated Jan 4, 2019 and proceeded ex-parte. The order dated Jan 4, 2019 is reproduced here under :

"ID No. 127/2018

January 4, 2019

Present : Sh. S.S. Upadhyay, A/R for the claimant

None for the management.

No written statement has been filed by the management. Neither any authorized representative nor any official of the management is present even today. Hence, management is hereby proceeded ex-parte. Be listed for ex-parte evidence of the claimant for 11.03.2023.

(Presiding Officer)

January 4, 2019 "

8. Subsequent thereto, on March 11, 2019 one Ms. Swati Sharma, Assistant Manager, the HR for the management appeared and her presence is recorded by the tribunal. However, the case is adjourned for ex-parte evidence of the claimant for 23.05.2019. On the next date fixed (23.05.2019) Sh. S.S Upadhyay A/R for the claimant filed affidavit in evidence of the workmen/claimants Sh. Deepak, Sh. Pushpender Kumar, Sh. Babu Lal Meena, and Sh. Sanjay Kumar as witness evidence. This is noteworthy that though no application for recall of order proceeding ex parte dated 04.01.2019 is moved then also Sh. Amit wadhwa, the manager on behalf of the management was present when the affidavit of the workmen/claimants were taken on record by the tribunal. On 23.05.2019 his presence recorded in the order. Despite the knowledge of the next date fixed by the tribunal 03.09.2019 none appeared for the management therefore, tribunal adjourned the proceedings for 01.11.2019. On 01.11.2019 again none appeared for the management and the claimants/workmen submitted their another set of ex-parte evidence. Tribunal recorded the ex parte evidence of Sh. S.S upadhyay, Sh. Suresh chander, and Sh. Babu Lal Meena. Since the A/R for the workmen sought time for examination of some other claimants also the tribunal granted time. On 31.05.2022. Seven workmen submitted their affidavit and the Ld. A/R closed evidence of the claimants.

9. Tribunal fixed the date, 11.07.2022 for arguments. On 11.07.2022 Ld. Presiding officer heard ex-parte argument as none appeared for the management. The presiding officer felt some clarification therefore fixed 21.11.2022 for hearing. After a prolonged gap of time on April 13, 2023 one Sh. J. Jagdish Kumar A/R for the management put his appearance on behalf of the management in the case running ex-parte. Even thereafter the management abstained itself from appearing in the case before the tribunal. In the presence of AR for the management Sh. J. Jagdish Kumar the case was again adjourned for argument fixing 15 May, 2022. Ultimately the tribunal on 11th of October 2023 passed the following order.

"ID No. 127/2018

Oct 11, 2023

Present: Sh. S.S Upadhyay, A/R for the claimant.

Sh. J. Jagdish, A/R for the management.

Called on. Ld. Authorized Representative for the claimants Sh. S.S. Upadhyay is present before the Court. He drew attention of the Court that since long ago vide order dated 04.01.2019, the present industrial dispute was set ex-parte against the management of 'Hotel Ashok'. However, this has been severely noted that despite proceeding is running ex-parte against the management, Shri. J. Jagdish Kumar Authorized Representative of management is regularly putting his appearance, but no application to recall the order to proceed ex-parte against the management is moved by him.

The A/R of the workmen has also contended that written note of argument, after completion of the evidences on behalf of the workmen along with relevant permission to the case has already been filed and available on record. He had information in terms of the written arguments. The Court even had heard the argument of the A/R for the workmen on 11.07.2022 and reserved the matter for passing of award however, with the appearance of Sh. J. Jagdish Kumar A/R

for the management, with a view to secure the interest of justice, he asked whether willing for his argument on behalf of the management. The A/R for the management Sh. J. Jagadish Kumar is still asking adjournment which he has no justification and propriety in terms of the order dated 04.01.2019 and 11.07.2022, which still stand good and effective. No further time shall be given in terms of the said orders. The matter shall remain kept reserved for passing of the award.

Ex- parte decision in adjudication on merits

10. This would not be out of relevance to mention that till Oct 11, 2023 and also on any further date thereafter, no application to recall the order of the tribunal dated 04.01.2019 whereby the management was proceeded ex-parte, is moved by the management the tribunal has no option than to decide and adjudicate the matter on merit on the basis of facts, materials and evidences available on record of the case ex-parte.

11. In the Presence and hearing of the Authorised Representatives of the parties to the present Industrial dispute Sh. S.S. Upadhaya for the claimants/workmen concerned and Sh. J. Jagadish for the management, I perused the record of the case and gone through the written argument filed by Sh. Upadhaya. The AR for the management stood throughout the submission of ex-parte oral argument by Sh. S.S. Upadhaya. The management though being represented through the AR since before the adjourned date of the hearing in term of order, on April 12, 2023, May 15, 2023, and July 19, 2023 neither applied for the recall of order to proceed ex-parte nor submitted the written argument despite affording opportunity. He seemed quite confident that if any award is passed against the management he would have right to get the same set aside. The attendance of AR of the management before the tribunal reflects from the orders, are being quoted here for easy reference.

“ID No. 127/2018

April 13, 2023

*Present: Sh. S.S Upadhay, A/R for the claimant.
Sh. J. Jagadish, A/R for the management.*

Case is again listed for argument on 15.05.2023.

(Presiding Officer)

April 13, 2023”

“ID No. 127/2018

May 15, 2023

*Present: Sh. S.S Upadhay, A/R for the claimant.
Sh. J. Jagadish, A/R for the management.*

Case is again listed for argument on 19.07.2023.

(Presiding Officer)

May 15, 2023”

“ID No. 127/2018

July 19, 2023

*Present: Sh. S.S Upadhay, A/R for the claimant.
Sh. J. Jagadish, A/R for the management.*

As the P.O. is on leave case is adjourned for 11.10.2023.

(Presiding Officer)

July 19, 2023”

“ID No. 127/2018

Oct 11, 2023

*Present: Sh. S.S Upadhay, A/R for the claimant.
Sh. J. Jagadish, A/R for the management.*

Called on. Ld. Authorized Representative for the claimants Sh. S.S. Upadhyay is present before the Court. He drew attention of the Court that since long ago vide order dated 04.01.2019, the present industrial dispute was set ex-parte against the management of ‘Hotel Ashok’. However, this has been severely noted that despite proceeding is running

ex-parte against the management, Shri. J. Jagdish Kumar Authorized Representative of management is regularly putting his appearance, but no application to recall the order to proceed ex-parte against the management is moved by him.

The A/R of the workmen has also contended that written note of argument, after completion of the evidences on behalf of the workmen along with relevant permission to the case has already been filed and available on record. He had information in terms of the written arguments. The Court even had heard the argument of the A/R for the workmen on 11.07.2022 and reserved the matter for passing of award however, with the appearance of Sh. J. Jagdish Kumar A/R for the management, with a view to secure the interest of justice, he asked whether willing for his argument on behalf of the management. The A/R for the management Sh. J. Jagdish Kumar is still asking adjournment which he has no justification and propriety in terms of the order dated 04.01.2019 and 11.07.2022, which still stand good and effective. No further time shall be given in terms of the said orders. The matter shall remain kept reserved for passing of the award.

(Presiding Officer)

C.G.I.T-I

Oct 11, 2023”

Points for determination

12. Since the management knowingly and cautiously has not submitted written statement in defense, made intermittent appearance as and when he liked before the tribunal, watched the proceeding knowing very well that proceedings moves ahead ex-parte, cannot be said to have not been afforded opportunity of hearing, but deserves to be held, intentionally not availed the opportunity to contest the case. The tribunal has to adjudicate the present Industrial Dispute in terms of the reference made by the Central Government on 31.01.2018, the claim statement filed by the claimants/workmen and the evidences oral and documentary adduced by them before the tribunal. The tribunal further thinks it proper to settle points for determination of the Dispute as follows: -

- i) Whether the claimants Sh. Suresh Chander and 13 Ors. Name here in above are entitled for regularisation of their services with the management of Ashok Hotel? And*
- ii) If yes, whether the claimants are entitled to wages at par with their regular counterpart working in their respective category as CPA, drivers and mechanics? And*
- iii) What directions are necessary in this respect?*

13. The points of determination settled here in above are interrelated with each other. If in answer to the point of determination no. (i), the claimants are found entitled for regularisation then the point of determination no. (ii) shall consequentially stand answered positively and the tribunal in its ‘Award’ under the facts and circumstances of the case, shall issue necessary directions to all concerned.

Point for determination no.(i)

Whether the claimants are entitled for regularization of their services with the management of Ashok Hotel?

The workmen have led evidences to the effect that they are working at their respective posts by producing before the tribunal the photo copies of all relevant documents made annexures with their affidavit. The claimant evidence along with their annexure (documentary evidence) stood un rebutted.

The claimants/workmen have filed affidavit in their evidence along with the relevant documents with regard to their appointment and their joining. The affidavit stands uncontroverted. The workmen have stated the specific dates of joining their employment in the management. In their claim statement and also in the document annexed there with. They have also stated their specific dates of joining individually in their affidavit and the designation for which they are working. They have deposed in evidence producing themselves as witness that they are continuing in their work uninterruptedly for every calendar year they have worked for more than 240 days. Neither any appointment letter was issued to them nor any other document acknowledging their services were provided despite repeated demands. However, they were working under the direct control and supervision of the management. Though they have been shown as employees of the different contractors during the period of their employment with the management but this was only to deprive them of their legitimate rights. The claimants as witnesses have also annexed in evidence proof on affidavit filed by them, their driving license, identity cards, issued by the ‘Hotel Ashok’, their security pass issued from 2010 upto year 2018 when they deposed their statement as witness before the tribunal. They have also submitted extract from the attendance sheet and duty roaster recurrently and regularly from the year of their engagement till date.

14. This would be important and relevant to note that the copies of the document annexed with the affidavit in evidence are issued by the competent authorities of the management of ‘Hotel Ashok’ and extract from the registers maintained and preserved by the management in the course of their ordinary business. The management though

represented through ARs and was in know and knowledge of these documents has not denied them from being genuine at any stage of the proceeding therefore, shall be treated as relevant and acceptable for consideration. The claimants/workmen have successfully proved their initial joining and continuation in their employment till the date of their claim and also at the date of their statement in evidence.

15. The Ld. AR for the claimants argued that the attendance register and duty roaster filed by them proves very well that they have worked for more than 240 days continuously in each and every calendar year of their employment which makes them entitled to the claim of regularisation. Ld. AR further argued that keeping the claimants/workmen without regularisation and confirmation of their services has malafide on the part of management so as to avoid their claim of regularisation and this is the only reason for their intentional absence from the proceeding despite the notice of the proceeding and different stages therein.

16. Evidence on record further shows and tend to prove that in the present dispute there is relationship of employer and employee between the management of 'Hotel Ashok' and the claimants/workmen. Their documents like attendance register, duty roaster, identity card, security pass, etc. have sufficiently and satisfactory establish that they are working in the premises of the management since the date of their initial joining and continuing as such. The said established fact on evidence stand uncontroverted, in absence of any document contrary to those filed by the claimants/workmen. The tribunal reached at a conclusion that they cannot be presumed to be employees of the contractor only.

What for the claimant are entitled?

17. To answer the entitlement of the claimants/workmen for regularisation in the services of management this would be material fact to be considered, whether the claimants/workmen are subjected to unfair labour practice or not. Unfair labour practice as defined under section 2(ra) of the Act, means any of the practices specified in the 5th schedule of the Industrial Dispute Act in item no. 10 includes to employ/workmen as *Badlis*, *Casual* or temporaries and to continue them as such for years, with the object of depriving them of the status and privilege of permanent workmen. The evidence on record shows that the claimants are working in the different categories for the prolonged period and they have expertise in their work. The management in utter disregard of law deprive them from regularising their services against the vacant post. The expertised services of the claimants/workmen are regularly being utilised by the management in their direct supervision and control. They are being paid their wages also by the management. The management is the beneficiary of the service of the workmen.

18. On the basis of the evidence produced by the workmen it is very clear that the present workmen are employee of 'Ashok Hotel' and they are entitled to regular pay scale of their post with all allowances and consequential benefits from the day they are working. The management of Ashok Hotel is committing unfair labour practice by paying them salary through contractor rather than paying them directly. High Court of Jammu and Kashmir in case of the J&K Bank Ltd. Vs Central Government Industrial Tribunal and others reported in 2018 LABI.C. 2970 have held:

"Unfair Labour practice means to continue workmen in temporary/ Contractual capacity for years together despite availability of vacant post, aimed to deprive them of status and privileges of permanent workmen".

19. In the present case the oral and documentary evidence prove the continuous service of the workmen rendered for the management without regularising their services against the permanent vacancy is held to be illegal and unjustified the issue is therefore answered in favour of the workmen that they are entitled for regularisation of their services with the management of Ashok Hotel.

Whether the claimants are entitled wages at par with their regular counterparts working in their respective category as drivers and mechanics.

20. This is a case where as indicated above the workmen have been victimised on account of unfair labour practice by the management. The posts for which they are aspirants are perennial in nature but they are not getting the pay scale which their counterparts (the regular employees) are getting. Keeping the situation in view it is felt proper and just to issue direction to the management to frame a scheme for regularisation of the claimants/workmen against the permanent post according to their eligibility, experience and expertise which would meet the ends of justice. They are also held entitled for pay scale equal to that of the permanent employees holding similar post in the management (Ashok Hotel) from the date of their initial appointment. The management is further liable to complete the exercise of regularising the workmen/claimants within the time stipulated in the award and to pay the arrear of the dues to them without interest if they comply with the order and award within next 2 months from the date of award failing which the amount accrued shall carry interest @ of 6% from the date of their accrual. Accordingly, the award is being ordered in following terms.

AWARD

The present reference dated 31.01.2018 No.L-42011/169/2017-IR(DU) Ministry of Labour is answered and decided in favour of the claimants/workmen namely Sh. Suresh Chander and 13 ors. (whose names are mentioned in the list which is made part of the award).

The management of 'Ashok Hotel' is directed to frame a scheme for regularisation of these workmen within 3 months and regularise their services against the permanent post according to their eligibility, experience and expertise and to

grant them pay scale equal to the pay scale of the permanent and regular employees holding similar post from the date of their initial joining in the management of Ashok Hotel. This direction is specific in respect to the workmen of this claim petition as per the list annexed to the award.

The management is further directed to complete exercise of regularisation of the claimants/workmen as directed above within the time stipulated (within 3 months) and pay arrear of the dues to the individual claimant without interest within next 2 months failing which the amount accrued shall carry interest @ of 6% from the date of approval and till the final payment is made.

Send the copy of this award to the appropriate Govt. for notification as required as under section 17 of the ID Act 1947,

List of the claimants

The 14 claimants/workmen are enumerated here under namely,

Sl. No.	NAME	DESIGNATION	WORKING SINCE
1	Suresh Chander	CPA	29-03-2005
2	BabuLal	Driver	2009
3	Mahesh Kumar	Driver	20.09.2012
4	Hari Singh	Driver	13.09.2014
5	Dinesh Kumar	Driver	06/2014
6	Vijay Singh	Driver	19.06.2010
7	Sanjay Kumar	Driver	20.04.2010
8	Suresh Kumar	Driver	01.10.2014
9	Jalsingh	Guard DVR	1993 1996
10	Suresh Kumar	M/c/Driver	25.07.2007
11	Deepak Kumar	Driver	2008
12	Deepak Kumar	Driver	11.08.2012
13	Mukesh Kumar	Driver	01.10.2012
14	Pushpender	Driver	12.04.2012

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 670.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सचिव, दिल्ली विकास प्राधिकरण (डीडीए), नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री गौरव नागर, कामगार, द्वारा - अध्यक्ष, डीडीए मजदूर यूनियन, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1 नई दिल्ली पंचाट (संदर्भ संख्या 106/2016) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 04.04.2024 को प्राप्त हुआ था।

[सं एल-42011/34/2016- आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 5th April, 2024

S.O. 670.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 106/2016) of the **Central Government Industrial Tribunal cum Labour Court – I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Secretary, Delhi Development Authority (DDA), New Delhi, and Shri Gaurav Nagar, Worker, Through - The President, DDA Mazdoor Union, New Delhi**, which was received along with soft copy of the award by the Central Government on 04.04.2024.

[No. L-42011/34/2016- IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE**Before the Justice Vikas Kumar Srivastava (Retd.) Presiding Officer****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM – LABOUR COURT-I, NEW DELHI****ID No. 106/2016**

Shri Gaurav Nagar S/o Sh. Late Jagpal Singh,
Through, The President,
DDA Mazdoor Union, C/o Room No. 95,
Barrack No. 1/10, Jamnagar House,
Shahjahan Road, New Delhi – 110011.

Workman...

Versus

The Secretary,
Delhi Development Authority (DDA),
Vikas Sadan, B-Block, 1st Floor, INA,
New Delhi – 110023.

Management...

AWARD

In the present case, a reference was received from the appropriate Government vide letter No-L-42011/34/2016-IR(DU) dated 02.05.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947. for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether Shri. Gaurav Nagar S/o Late Sh. Jagpal Singh is entitled to be appointed on a suitable post as per his qualification w.e.f. 02.04.2014 on compassionate ground for survival of family members of the deceased employee? If so, what direction are necessary in this respect?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. The claimant union filed the claim statement and management also filed their written statement in the Tribunal.

3. On receipt of the above dispute, issues were framed on 12.04.2017 and case was listed for claimant evidence on next date of hearing on 01.06.2017, but till date nor their evidence neither of any witnesses filed by the workman, also that observed by the Tribunal, several opportunities was given to the claimant but claimant unnecessarily delaying the proceeding. Therefore, every presumption lies in favor of the fact that the above dispute claimant not want to continued. Despite several opportunity was given to the claimant, but claimant opted to abstain away from the proceedings. Thus, it is clear that the workman is not interested in adjudication of the reference/dispute on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 18.10.2023

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 671.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (33/2019) प्रकाशित करती है।

[सं एल-12011/60/2018- आईआर (बी-III)]

सलोनी, उप निदेशक

New Delhi, the 5th April, 2024

S.O. 671.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 33/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen.

[No. L-12011/60/2018- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 33/2019

Ref. No. L-12011/60/2018-IR(B-II) dated: 28.11.2018

BETWEEN

The General Secretary, Union Bank Employees Union, UP, 628/M-33, Murari Nagar, Faizabad Road,
Lucknow - 226017

AND

The General Manager, Union Bank of India, Zonal Office, Near Mantri Awas, Vibhuti Khand, Gomti Nagar, Near
Mantri Awas, Lucknow-226010

AWARD

By order No. L-12011/60/2018-IR(B-II) dated: 28.11.2018 the present industrial dispute has been referred for adjudication to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

"Whether the action of the management to remove the regular clerical staff at the NPC, Lucknow and assigned their duties to outsourced staff is justified? If so then what relief is entitled/admissible to these regular clerical staff."

In response to reference on 15.01.2020, statement of claim has been filed, thereafter, written statement alongwith preliminary objection was filed on behalf of respondent, to which rejoinder statement has been filed.

On 02.02.2024, an application has been moved on behalf of applicant by General Secretary, Union Bank Employees Union U.P. Lucknow, the same is quoted hereunder:

"This is submitted before your Hon'ble Court that in periodical review meeting of the Union, a decision has been taken "not to pursue the above dispute " as all concerned workmen have already been accommodated in the vacancies in local branches of Bank.

In view of above decision taken by the Union, this is humbly requested to please close the matter at this stage."

Authorized representative of the workman on the basis of said application submits that he does not want to press the present industrial dispute and the same may be dismissed as not pressed.

Counsel for respondent has no objection.

Accordingly, in view of the above said facts, the claim of workman is dismissed as not pressed; and workmen are not entitled for any relief.

The reference under adjudication is answered accordingly.

Award as above.

Lucknow.

Justice ANIL KUMAR, Presiding Officer

04th March, 2024

नई दिल्ली, 5 अप्रैल, 2024

का.आ. 672.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, बी.जी.के शिर्के कंपनी टेक्नोलॉजी प्राइवेट लिमिटेड, नरेला, नई दिल्ली; श्री राम इंटरप्राइजेज, पुणे महाराष्ट्र, के प्रबंधन के संबद्ध नियोजकों और आई.डी. नंबर, 144/2018, श्री अजय कुमार, आई.डी. क्रमांक 145/2018, श्री सतपाल, आई.डी.नं., 146/2018, श्री विकास कुमार, आई.डी.नं. 147/2018, श्री देवेन्द्र कुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 144/2018, 145/2018, 146/2018, 147/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 08.04.2024 को प्राप्त हुआ था।

[सं एल-42025/07/2024-61- आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 5th April, 2024

S.O. 672.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 144/2018, 145/2018, 146/2018, 147/2018) of the **Central Government Industrial Tribunal cum Labour Court –II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, B.G.K Shirke Company Technology Pvt. Ltd., Narela, New Delhi; Shri Ram Enterprises, Pune, Maharashtra, and I.D.No, 144/2018, Shri Ajay Kumar, I.D. No. 145/2018, Shri Satpal, I.D.No, 146/2018, Shri Vikash Kumar, I.D.No, 147/2018, Shri Devender Kumar, Worker**, which was received along with soft copy of the award by the Central Government on 08.04.2024.

[No. L-42025/07/2024-61-IR(DU)]

DILIP KUMAR, Dy. Director

ANNEXURE

BEFORE SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 144/2023

Sh. Ajay Kumar, S/o Sh. Tek Ram,

R/o- Village & Post Office-Rohat,

Tehsil & District-Sonipat, Haryana-131403.

I.D. No. 145/2023

Sh. Satpal, S/o Sh. Chand Ram,

R/o- Village & Post Office-Jasor Kheri,

Tehsil-Bahadurgarh, District-Jhajjar, Haryana-124507.

I.D. No. 146/2023

Sh. Vikas Kumar, S/o Sh. Mahender Singh,

R/o-438, Bazid Pur, Saboli, Post Office-Nathupur,

Tehsil & District-Sonipat, Haryana-131403.

I.D. No. 147/2023

Sh. Devender Kumar, S/o Sh. Kashiram,

R/o- House no.-15, Village-Fatehpur, Post Office-Bindrauli,

Tehsil & District-Sonipat, Haryana-131403.

Versus

1. The General Manager,

B.G.K Shirke Company Technology Pvt. Ltd.,

DDA Project-IV, Mata Mansa Devi Main Office,

Pocket-09, Narela, New Delhi-110040.

2. Shri Ram Enterprises,

02, Krishna Plaza, Opp. PMC Water Tank, Bombay Sappers

Colony, Pune Nagar Road, Pune, Maharashtra-411014.

AWARD

These are the four cases filed by the different workmen against the same management. Having common respondents and same cause of action, These cases are taken together for recording the proceedings.

Counsel for the management Ms. Akansha Mehra had stated that earlier this court had also dismissed the case of the claimants against the management, because of the management being a private industry, it does not come within the definition of appropriate central government in defined under 2A of the I.D Act. Counsel of the workmen submits that he wanted to withdraw these cases and made prayer that he be given liberty to file the same before the tribunal of appropriate government.

In view of the above submission made by AR of the claimant, these claims stand dismissed as withdrawn. Award is accordingly passed. A copy of this award is sent to appropriate government for notification under section 17 of the I.D. Act. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 8 अप्रैल, 2024

का.आ. 673.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **चंडीगढ़-II** के पंचात (300/2013) प्रकाशित करती है।

[सं एल-12012/86/2013- आईआर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 8th April, 2024

S.O. 673.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 300/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-II* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12012/86/2013- IR(B-II)]

SALONI, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH.****Present: Sh. Kamal Kant, Presiding Officer.**

ID No. 300/2013

Registered on:-04.12.2013

Sh. Leel Kumar S/o Sh. Sukhbir, C/o Ashok Sharma Nabheewala, Advocate, House No.91, Sector 45-A, Chandigarh.

.....Workman

Versus

1. The Zonal Manager, Central Bank of India, Bank Square, Sector-17, Chandigarh.
2. The Branch Manager, Central Bank of India, SCO No.528, Sector-70, Mohali(Punjab).

.....Respondents/Managements

AWARD**Passed On:-01.01.2024**

Central Government vide Notification No.L-12012/86/2013-IR(B-II), Dated 16.11.2013, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of Central Bank of India, Mohali Branch, SCO No.528, Sector-70, Mohali(Punjab) of termination of services of Shri Leel Kumar S/o Shri Sukhbir, the workman from the bank w.e.f. 08.12.2010 is legal and justified? What relief the workman is entitled to and from which date?

1. Both the parties were put to notice and claimant/workman Leel Kumar filed statement of claim, with the averment, that he was employed on daily wage basis as Safai Karamchari on 06.06.2003 in the newly opened branch of the Bank at Sector 70, Mohali and worked upto 11.11.2010. After performing his duty in the bank on 11.11.2010 while coming back home the workman met with an accident and was injured. When the workman reported back to the bank on 08.12.2010 to resume his duties the Bank Manager Smt. Poonam Bagga told the workman that he has been retrenched and need not to come to the bank as bank has employed another workman. The duty hours of the workman were from 09.00 am to 02.00 pm but it was only on papers and the workman was performing more than 08.00 hours of duty and has been attending to the duty along with Cash Delivery Van, Chest and also the duty of peon in the bank. The retrenchment of the workman is in violation of Section 25 of the ID Act. No compensation was given to the workman. The workman was paid salary through vouchers signed by the management and the second manager. The workman has no source of income and having a large family to support. The workman after his retrenchment is jobless and is not gainful employed anywhere. The bank has issued circular on 17.11.2011 to regularize the service of temporary sub-staff or part time Safai Karamchari who has completed minimum 45 days of service and it is also a bank policy. The workman has worked continuously without break and the services of the workman have been retrenched without paying compensation and in violation of Section 25-F of the Industrial Disputes Act, 1947. It is therefore, prayed that the retrenchment of the workman may kindly be set aside and the workman be reinstated in service with full back wages.

2. Respondent/management has filed its written statement, alleging therein that the workman was engaged on purely temporary, contractual and need basis as and when his services were required and mutually agreed wages/remuneration was paid to the workman depending on the nature of duties he performed for cleaning, sweeping and dusting of the branch premises. The job of the workman was hardly for 1-2 hours a day and the workman was paid the day he worked. The workman did not turn up after 11.11.2010 to work and neither he informed the bank about his accident nor submitted any certificate about his accident and his disability to come to bank so, his job contract was not renewed further. The services of the workman were never terminated but his contract of job was not renewed when he did not turn up after 11.11.2010. Neither any appointment nor any termination letter has ever been issued by the respondent-management to the workman. There was no administrative, economic and disciplinary control of the management over the workman. The present reference deserves to be dismissed on the ground that there was no relationship of employer and employee ever existed between the respondent-management and the workman at any point of time. During the contractual period, the posts of Safai Karamchari-cum-Sub Staff were advertised in the newspaper and also placed on the Notice Board of the respondent-bank in bank's premises. The workman in response to the advertisement did not apply for the said post. Since the workman despite his knowledge did not apply for the post advertised by the respondent-bank so, workman has no right to claim employment with the respondent-bank. It is therefore, respectfully prayed that the present reference may kindly be dismissed with exemplary costs.

3. Workman filed replication to the written statement filed by the management, alleging therein that the workman has been performing duty from 08.00 am to 05.00 pm like the regular employees and performing all jobs of Class-IV. The workman falls within the definition of workman as prescribed under Industrial Disputes Act, 1947. The remaining facts alleged in the replication are same as alleged in the claim statement hence need not to be repeated again.

4. In order to prove his case, workman Leel Kumar has submitted his affidavit as Ex.WW1/A along with documents Ex.W2 to Ex.W3(67 pages), Ex.W4(4 pages), Ex.W5, Ex.W6, Ex.W7 and Ex.W8 and Ex.W9(37 pages) and cross-examined by the learned counsel of the management Sh. Vishnu Kaushik and in his cross-examination workman has stated that no appointment letter was issued to him. He had given the intimation to the bank regarding his accident by filing letter but today he has not brought the copy of the same. He has not filed any document relating to his medical treatment. He is doing casual work after his dismissal from service as and when get the same.

5. Management has submitted affidavit of witness Saurabh Kumar, Senior Manager, Central Bank of India, Sector 70, Mohali, who has tender his affidavit as Ex.MW1/A. He has been cross-examined by the learned counsel of workman Sh. Ashok Sharma. This witness in his cross-examination has stated that the workman rendered his services as daily wagger that is why his bank record is not maintained. There is no written agreement between the management

and workman with regard to employment of workman. It is correct that bank has neither issued any notice nor any compensation.

6. I have heard Sh. Ashok Sharma, Ld. Counsel of the workman and Sh. Vishnu Kaushik, Ld. Counsel for the management and perused the file, evidence and documents submitted by both the parties.

7. Learned counsel of workman has filed its written arguments and submitted that the workman joined the newly opened branch of the bank at Mohali Sector 70 on 06.06.2003 and continued in service without break up to 11.11.2010. Poonam bagga the then Manager refused to permit the workman to join duties and services were retrenched and in his place new person was appointed. The names of various managers with whom the workman worked is mentioned which has not been denied in the written statement nor it is controverted. No notice or retrenchment compensation has been given to the workman and there is a violation of Section 25-F of the Industrial Disputes Act, 1947. The management has admitted in its written statement that the workman was engaged on part time contract and need basis as and when his services were required for a specific job and was paid accordingly. Learned counsel of workman has relied upon the judgment of Hon'ble High Court of Punjab & Haryana in the case of Uttar Haryana Bijli Vitran Nigam Ltd. Vs. The Industrial Tribunal and Ors. CWP No.11387 of 2008, decided on 28.01.2009, Range Forest Officer and Ors. Vs. Ram Chander and Ors., CWP No.6673 of 2006(O&M), decided on 02.09.2009, Kuldeep Singh Vs. Presiding Officer, Labour Court, Panipat and Ors., Civil Writ Petition No.13548 of 1996, decided on 24.02.2017 and lastly in the judgment passed by the Hon'ble Supreme Court of India in the case of Div. Manager, New India Assurance Co. Ltd. Vs. A. Sankaralingam, Civil Appeal No.4445 of 2006, decided on 03.12.2008. While referring to Ex.W9 and Ex.W3(containing various vouchers regarding payment made to the workman), learned counsel for the workman contended that workman has worked about 248 days prior to 11.11.2010 i.e. the date on which the workman was retrenched in the preceding year. Not only this there are certain vouchers which were not produced by the management and these are vouchers for the period 26.10.2009 to 18.08.2010 and working days in these vouchers are for 109 days and adverse inference may be drawn against the management for not producing these vouchers. He thus contended that admittedly no retrenchment compensation was given to the workman and the workman worked for more than 240 days in preceding year from the date of his termination on 11.11.2010. Thus, the workman is entitled for reinstatement in service with back wages.

8. Learned counsel of the management has filed its written arguments and submitted that the workman was working as a casual worker on need basis for cleaning, sweeping and dusting of the branch premises. The job of the workman was hardly 1-2 hours a day and he was paid mutually agreed amount for the day he worked. As the workman did not turn up after 11.11.2010 at work and neither informed the bank about his accident nor submitted any certificate about his accident and his disability to come to bank as such, the workman had worked with the respondent-management intermittently. The services of the workman were never terminated. The workman was not in the employment of the respondent-management. Since the workman despite his knowledge did not apply for the post advertised by the respondent-bank so he has no right to claim employment with the respondent-bank. The workman has himself admitted in his cross-examination that he was working as casual employee on day to day need basis. Learned counsel has placed reliance in the case of Yogesh Mahajan Vs. Prof. R.C. Deka, Director, All India Institute of Medical Sciences, SLP Nos.22475-22476 of 2012, decided on 31.01.2018.

9. It is pertinent to mention here that in this case cross-examination of the workman is very material. Workman in his cross-examination had admitted that he was not given any appointment letter. He had also stated that he had not filed any document relating to his medical treatment. He had also stated that he had given intimation to the bank regarding his accident but he had not brought the copy of the same. He had also admitted that he is doing casual work after his dismissal from service as and when get the same.

10. It is added here that it is a case of the workman that he met with an accident on 11.11.2010 while coming back home and got injured and he reported back to the bank on 08.12.2010 to resume his duties but the Bank Manager Smt. Poonam Bagga told him that he has been retrenched and need not to come in the bank. In this regard, the workman has to place on record the evidence that he met with an accident i.e. medical bill and treatment record etc. but he has not placed on record the documents regarding medical treatment. Though, he has stated that he informed the bank about his accident but he has not placed on record copy of intimation given to the bank regarding his accident. Thus, it cannot be said conclusively that he met with an accident on 11.11.2010.

11. Further, even workman has stated that he reported to the bank on 08.12.2010 to resume his duties but he was not allowed to resume duty by the bank Manager Smt. Poonam Bagga. He has not placed on record any document showing the genuineness of his above pleading. He could have placed on record any letter/communication made by him to the Bank Manager regarding his approaching to join the duty on 08.12.2010. It seems that the workman has concocted the above story regarding coming in the bank on 08.12.2010. Had the workman been asked by the Bank-Authority not to resume his duty, he would have place on record some documents to substantiate his claim. Thus, it is clear that after 11.11.2010 the workman has abandoned his duty.

12. Not only this, it is also argued by the learned counsel of workman that the workman was engaged on contractual basis however, no appointment letter was ever issued to the workman nor any agreement was executed

between the workman and the respondent-bank. The workman was being paid the salary through vouchers for the day he worked. Thus, it cannot be said that the workman was working on contractual basis in the Bank. Moreover, for the sake of arguments, if it is assumed that the workman was working on contractual basis then he could not claim the statutory right for renewal of contract from time to time. To support this view, reliance can be placed on the judgment passed by the Hon'ble Supreme Court of India in the case of Yogesh Mahajan(supra), wherein the Hon'ble Supreme Court has held that ***"It is settled law that no contract employee has a right to have his or her contract renewed from time to time."***

13. It is also added here that since workman had abandoned his job on 11.11.2010 so even if workman has completed 240 days preceding from 11.11.2010 in a calendar year, he cannot claim the benefit of Section 25-F of the Industrial Disputes Act, 1947. The workman has also claimed that bank had issued a circular on 17.11.2011 to regularize the service of temporary sub-staff or part time Safai Karamchhari who has completed minimum 45 days of service as per Bank-Policy. It is also pertinent to mention here that workman in response to the advertisement did not apply for the said post so, the workman has no right to claim regularization. Again in the case of Yogesh Mahajan(supra), the Hon'ble Supreme Court of India had held that when there is nothing on record to indicate that the appointment of petitioner on contractual basis or on an ad hoc basis was made in accordance with any regular procedure or by following the necessary rules. That being so, no right accrues in favour of the petitioner for regularization of his services.

14. Thus, the petitioner was not also entitled for any regularization of his services when he was earlier doing the job on daily wages which was not given to him by following the procedure for recruitment. Even he has not applied for regular post. Thus, his plea for regularization in service cannot give benefit. Not only this, the workman has admitted in his cross-examination that he is doing casual work after his dismissal from service as and when gets the same.

15. So far as the case law cited by the learned counsel for the workman is concerned, they are not relevant to the facts and circumstances of the case. In view of the above discussion, no case of the workman is made out for retrenchment of his services without paying compensation and in violation of Section 25-F of the Industrial Disputes Act, 1947 and the action of the management in terminating the services of the workman is within the four corners of Law. As such, the workman is not entitled for any relief and the reference is answered accordingly.

16. Let copy of this award be sent to the Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, Presiding Officer

नई दिल्ली, 8 अप्रैल, 2024

का.आ. 674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **चंडीगढ़- II** के पंचाट (1222/2005) प्रकाशित करती है।

[सं. एल-12012/89/2005- आईआर (बी)-II]

सलोनी, उप निदेशक

New Delhi, the 8th April, 2024

S.O. 674.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1222/2005) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-II* as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank and their workmen.

[No. L-12012/89/2005- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. Kamal Kant, Presiding Officer.

ID No. 1222/2005

Registered on:-29.11.2005

Sh. Ramesh Chander Kapoor, S/o Sh. Mohan Lal, R/o Dashmesh Nagri, Near Bharat Model School, Main Chowk, Jalalbad, Ferozepur.

.....Workman

Versus

The Zonal Manager, Punjab & Sind Bank, Zonal Office, Sadik Chowk, Faridkot.

.....Respondent/Management

AWARD

Passed on:-22.11.2023

Central Government vide Notification No.L-12012/89/2005-IR(B-II) Dated 31.10.2005, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of Punjab & Sind Bank, Faridkot inflicting the punishment of compulsory retirement on Shri Ramesh Chander Kapoor, Ex-Clerk-cum-Cashier from the services of the bank w.e.f. 07.08.2004 is legal and justified? If not, to what relief the concerned workman is entitled to and from which date?”

1. Today i.e. 22.11.2023 the case was fixed for evidence of the legal heir of the deceased-workman. It is submitted by the learned counsel of management that the legal heir of the deceased-workman is not turning up since long and several opportunities have already been given to the legal-heir of the deceased-workman for evidence and prayed for dismissal of the present reference.

2. On perusal of file/record, it is found that the submissions made by the learned counsel for management are true. Notice was also given to the legal heir of the deceased-workman but none has appeared on behalf of the legal heir of the deceased-workman while several opportunities have already been given to the legal heir of the deceased-workman for evidence, which shows that the legal heir/legal representative of the deceased-workman is not interested in adjudication of the case on merit nor they have led any evidence to prove their cause against the respondent/management as such, this Tribunal is left with no choice, except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the present reference for the non-prosecution of the legal heir of the deceased-workman.

3. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 8 अप्रैल, 2024

का.आ. 675.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **चंडीगढ़- II** के पंचाट (343/2013) प्रकाशित करती है।

[सं. एल-12012/02/2014- आईआर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 8th April, 2024

S.O. 675.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 343/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-II* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12012/02/2014- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH.

Present: Sh. Kamal Kant, Presiding Officer.

ID No. 343/2013

Registered on:-25.03.2014

Sh. Sandeep Sharma S/o Sh. Narotam Sharma, Kirti Nagar, Ward-10, Opp. Ramesh Kiryana Store,
Sirsa(Haryana).

.....Workman

Versus

The Regional manager, Central Bank of India, Regional Office, Jawahar Market, Model Town,
Rohtak(Haryana).

..... Management

AWARD

Passed on:-16.01.2024

Central Government vide Notification No.L-12012/02/2014-IR(B-II), Dated 10.03.2014, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of the Regional Manager, Central Bank of India, Rohtak in terminating the services of Sh. Sandeep Sharma S/o Sh. Narotam Sharma, Ex-Peon w.e.f. 05.03.2013 is just and legal? What relief the workman is entitled to and from what date?”

1. The brief facts relevant for deciding this claim petition as per claim of workman are that, the workman was appointed as temporary/casual peon cum Safai Karamchari at Central Bank of India, Jawahar Market, Model Town, Rohtak on 17.07.2007 and worked upto 05.03.2013 continuously. The workman was working against the regular post but the respondent/management terminated the services of the workman on 05.03.2013 without complying the provisions of Industrial Disputes Act. No notice was given, no retrenchment was paid which is violation of Section 25-F of the Industrial Disputes Act and even after the termination of the workman, a new person has been appointed who is a raw hand which is violation of Section 25-H of the Industrial Disputes Act. The work and conduct of the workman was satisfactory and there was no complaint against the workman during his service and only with a ulterior motive to adjust a person, the respondent/management terminated the services of the workman. Afterwards the management and union has signed a MOU accordingly the vacancies were advertised in the newspaper inviting applications from the employees who had worked for 45 days in a calendar year as temporary/casual peon cum Safai Karamchari and on the said basis the workman was eligible and the workman submitted his application which was sent through proper channel and the same was forwarded by Branch Manager after verifying the record. Though, the workman was not selected as interview was merely an eye wash. The termination of the workman dated 05.03.2013 is wholly illegal, arbitrary and against the provisions of Industrial Disputes Act. It is therefore, prayed that the termination of the workman dated 05.03.2013 be declared illegal and quashed and the workman be reinstated in service with continuity of service and full back wages.

2. The management has filed written statement, alleging therein that the job of the workman was hardly for 2-3 hours a day. The workman was paid the day he worked. The workman had worked intermittently with the respondent-management. The services of the workman were never terminated but the job contract was not renewed after joining a regular incumbent with the respondent-management. Non-renewal of contract of job does not amount to retrenchment. The workman was engaged temporarily on contract and need basis for supplying drinking water to the respondent Bank's Branch at Sirsa at a mutually agreed rate per month and there has never been any employer-employee relationship between the respondent-management and the workman. There was no administrative, economic and disciplinary control of the respondent-management over the workman. Therefore, the question of violation of Section 25-F of the Industrial Disputes Act, 1947 does not arise. It is pertinent to mention here that as a onetime measure, temporarily/casual worker so engaged by various branches within the guidelines of Central Office Management were allowed to participate in the Recruitment Process for selection to the post of Subordinate Staff with the designation “Safai Karamchari-cum-Sub Staff and/or Sub-Staff” on full time basis(as per eligibility criteria along with fresh candidates). Since the workman was not in the employment of the respondent-management so his work and conduct was never adjudged. The workman was interviewed by the Interview Committee but the workman could not compete with the other candidates as a result of which the workman could not be selected. The action of the management is legal, just, proper and in accordance with law. No principle of natural justice has been violated. It is

therefore, respectfully prayed that in view of the above facts and circumstances of the case, the claim of the workman be dismissed with exemplary costs in the interest of natural justice, equity and fair play.

3. Parties were given opportunity to lead evidence.

4. In support of his case, the workman Sh. Sandeep Sharma has filed his affidavit in evidence as Ex.A1 and has been cross-examined by the learned counsel for management.

5. In support of his case, the management has examined Sh. Ramesh Kataria, S/o Sh. Hoshiar Singh, Senior Manager, Regional Office, Rohtak, who has filed his affidavit in evidence as Ex.MW1/A along with documents Ex.R-1 to R-4(colly), and has been cross-examined by the learned AR of workman.

6. The workman has filed its written arguments, alleging therein that the workman was appointed as temporary/casual peon-cum-Safai Karamchhari at Central Bank of India, Jawahar Market, Model Town, Rohtak on 17.07.2007 and worked upto 05.03.2013 continuously. The workman was working against the regular post but the respondent/management terminated the services of the workman on 05.03.2013 without complying with the provisions of Industrial Disputes Act. No notice was given and no compensation for retrenchment was given which is clear violation of Section 25-F of the Industrial Disputes Act and even after the termination of the workman, a new person has been appointed who is a raw hand which is violation of Section 25-H of the Industrial Disputes Act. The work and conduct of the workman was satisfactory and there is no complaint against the workman during his service and only with ulterior motive to adjust another person the services of the workman were terminated. Sh. Ramesh Kataria Senior Manager, Regional Office, Rohtak has categorically deposed in his cross-examination that "there was no complaint against the workman regarding his services in the Bank". The witness of the management had admitted during his cross-examination that "the workman had rendered his services in the bank from the year 2007 to 2013 as per the requirement of the establishment and the workman was paid monthly by virtue of the days when the workman rendered his services. The monthly emoluments of the workman are transferred in the account of workman. The termination of the workman dated 05.03.2013 is wholly illegal, arbitrary and against the provisions of Industrial Disputes Act and the interview taken by the committee is a simply eye wash and without any criteria they have not selected the workman and adjusted the wrong person. Learned counsel has placed reliance in the case of Jasmer Singh Vs. State of Haryana and Anr. Civil Appeal No.346 of 2015(arising out of S.L.P. (C) No.1532 of 2014) decided on 13.01.2015, Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others, Civil Appeal No.6767 of 2013(Arising out of SLP(C) No.6778 of 2012), decided on 12.08.2013 and lastly in the case of Ram Dulari Vs. Industrial Tribunal, Ludhiana and others, CWP No.20653 of 2012(O&M), decided on 17.03.2015. It is therefore, prayed that the termination of the workman dated 05.03.2013 be declared illegal and quashed and the workman be reinstated in service with continuity of service and full back wages.

7. Management filed written arguments, alleging therein that the claim of the workman is false, frivolous, vexatious and has been made with ulterior motives to take undue advantage, harass and humiliate the respondent-management by abusing the process of law because the workman has never been in the employment of management. It is admitted by the workman during cross-examination that **"neither any appointment nor any termination letter was ever issued by the respondent-management to the workman."** There was indeed no privity of contract whatsoever in regard to any matter between the respondent-management and the workman. As such, the workman was not a workman employed by the respondent-management within the meaning of Section 2-S of the Industrial Disputes Act, 1947. There was no administrative, economic and disciplinary control of the respondent-management over the workman. The workman was working as a casual worker on need basis for cleaning, sweeping and dusting of the branch premises. The job of the workman was hardly for 2-3 hours a day and the workman was paid mutually agreed amount for the day he worked. The present subject matter does not fall within the ambit of Section 25-F as the workman has never completed 240 days with the respondent-management continuously in any calendar year preceding the date with reference to the date of disengagement. There was no relationship of employer and employee ever existed between the respondent-management and the workman at any point of time. The claim of the workman is liable to be dismissed with exemplary costs in view of the factual position explained above.

8. There is no dispute about the preposition of law that onus to prove that workman was in the employment of management is always on the workman/claimant and it is for the workman to adduce evidence to prove factum of his employment with the management. Such evidence may be in the form of receipt of salary of wages for 240 days or record of his/her appointment or engagement for that year to show that he/she has worked with the employer for 240 days or more in a calendar year. In this regard, reference may be made to Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh(2005) 8 Supreme Court cases 481 as well as Director Fisheries Terminated Division Vs. Bhikubhai Meghajibhai Gavda(2012) 1 SCC 47.

9. In his affidavit. Ex.WW1/A the claimant has retreated his case that he was appointed as temporary/casual peon-cum-Safai Karamchhari by respondent no.1 on 17.07.2007 and worked upto 05.03.2013 continuously. He was working against the regular post but the respondent/management terminated the services of the workman 05.03.2013 without complying the provisions of the Act. No notice was given to him and no retrenchment compensation was given to the workman which is violation of Section 25-F of the Act. Later on, vacancies are advertised, inviting the

applications from the employees who had worked for 45 days in a calendar year and the workman was eligible for the said post but he was not appointed to the said post.

10. Thus, it was incumbent upon the workman to prove that he had worked for 240 days preceding his alleged retrenchment on 05.03.2013. Except his bald statement, there is nothing on the record to prove that he had worked for 240 days with the respondent-bank. He could have placed on record vouchers/receipts etc. or other evidence to prove that he was in the employment of the respondent-bank prior to 05.03.2013 and worked upto 240 days in that preceding year. Except his self-serving and bald testimony of the workman, there is nothing on record. He could have summoned the record regarding payment of wages to him which could have been summoned easily by filing application with the respondent-bank regarding the fulfillment of the aforesaid pre-requisite eligibility criteria by him but he has failed to summon the aforesaid record.

11. He has also not advanced any cogent explanation for non-summoning the record. It is entirely for workman to prove the completion of 240 days of his service with his employer prior to his retrenchment and protection under Section 25-F of the Act and onus to prove this fact is always on the workman which the workman has failed to prove it.

12. In view of the above observation, it is proved that workman has failed to prove that he has worked 240 day with bank prior to his alleged termination on 05.03.2013 in the preceding year.

13. Moreover, it is the case of the workman that regular vacancies were advertised by the respondent-bank and he applied for the same but he was not selected after interview and someone else was appointed. No evidence has been led by the workman how the said appointment by the bank was not in accordance with law. He was replaced by adopting due procedure by the bank and a regular incumbent was appointed. Thus, on this core also he is not entitled for any relief.

14. As regards the case law cited by the learned counsel of the workman in the case of Jasmer Singh Vs. State of Haryana and Anr., Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya(supra) and lastly in the case of Ram Dulari Vs. Industrial Tribunal, Ludhiana and others(supra) are concerned, they are not applicable to the facts and circumstances of the present case as the workman has failed to prove that he has worked with the respondent-bank for 240 days in a preceding year prior to 05.03.2013.

15. In view of my findings on the above discussed issues, as discussed in the preceding paragraphs, this reference is decided against the workman.

16. Let copy of this award be sent to Central Government for publication as required under Section 17 of ID Act, 1947.

KAMAL KANT, Presiding Officer

नई दिल्ली, 8 अप्रैल, 2024

का.आ. 676.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **चंडीगढ़- II** के पंचाट (280/2013) प्रकाशित करती है।

[सं. एल-39025/01/2024- आईआर (बी-II)-02]

सलोनी, उप निदेशक

New Delhi, the 8th April, 2024

S.O. 676.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 280/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-II* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-39025/01/2024- IR(B-II)-02]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Sh. Kamal Kant, Presiding Officer.

ID No. 280/2013

Registered on:-05.07.2013

Rahul S/o Laxman Dass, R/o #CB-4 Quarters, Lal Kurti, Ambala Cantt.

.....Workman

Versus

1. Regional Manager, Central Bank of India, Regional Office, Sector 17-B, Chandigarh.
2. Branch Manager, Central Bank of India, Baldev Nagar, Ambala City, Haryana.

.....Respondents/Managements

AWARD

Passed on:-16.01.2024

1. The workman Rahul has filed the present claim petition under Section 2-A of the Industrial Disputes Act, 1947 with the averment that the workman was engaged as temporary/casual peon cum Safai Karamchari at Central Bank of India, Baldev Nagar, Ambala City on 01.11.2010 and worked upto 26.11.2011 continuously. The workman was working against the regular post but the respondent/management terminated the services of the workman on 26.11.2011 without complying the provisions of Industrial Disputes Act. No notice was given, no retrenchment was paid which is violation of Section 25-F of the Industrial Disputes Act and even after the termination of the workman, a new person has been appointed who is a raw hand which is violation of Section 25-H of the Industrial Disputes Act. The work and conduct of the workman was satisfactory and there is no complaint against the workman during his service and only with a ulterior motive to adjust a person, the respondent/management terminated the services of the workman. Afterwards the management and union has signed a MOU accordingly and vacancy was advertised in the newspaper inviting applications from the employees who had worked for 45 days in a calendar year and on the said basis the workman was eligible and the workman submitted his application which was sent through proper channel and the same was forwarded by Branch manager after verifying the record. The Branch Manager was transferred from time to time as Krishan Lal the then Branch Manager under whom the workman had worked was transferred to Ambala Cantt branch and issued the Experience Certificate and on the request of workman, the same was issued and similarly the Baldev Nagar Branch Manager issued the said certificate but the workman could not get experience certificate from Ashok Kumar Aggarwal, Branch manager as he was transferred and his whereabouts were not known but Krishan Lal Branch Manager issued the certificate to the workman for the period 5.7.2011 to 26.11.2011 upto the date of termination. The workman was issued interview letter to appear in interview on 8.2.2013 but the said letter was cancelled and the workman represented the bank at Regional Office and the workman was only told to appear for interview on 8.2.2013 and accordingly, the workman appeared before the Interview Committee and the workman belong the schedule caste but the interview committee ignored the experience of 391 days in the said branch and the interview committee has not fixed any criteria to give the marks for the qualification and the interview was only a eye wash to adjust their own persons. The termination of the workman dated 26.11.2011 is wholly illegal, arbitrary and against the provisions of Industrial Disputes Act and the interview taken by the committee is a simply eye wash and without any criteria they have not selected the workman and adjusted the wrong person. It is therefore, prayed that the termination of the workman dated 26.11.2011 be declared illegal and quashed and the workman be reinstated with continuity of service and full back wages.

2. The management has filed written statement, alleging therein that the present reference is not maintainable and is without jurisdiction and liable to be dismissed on the ground that the present subject matter does not fall within the ambit of Section 2-A of the Industrial Disputes Act, 1947. The workman was engaged on purely temporary, contractual and need basis as and when his services were required at a mutually agreed contractual amount of Rs.100/- per day for sweeping, cleaning and dusting of the branch premises. The job of the workman was hardly for 2-3 hours a day and the workman was paid the day he worked. The workman had worked intermittently with the respondent-management. The services of the workman were never terminated but his contract of job was not renewed. Non-renewal of contract of job does not amount to retrenchment. The present reference deserves to be dismissed on the ground that the claim of the workman is false, frivolous, vexatious and has been dismissed with ulterior motive to take undue advantage, harass and humiliate the respondent-management by abusing the process of law because the workman has never been in the employment of respondent-management. Neither any appointment nor any termination letter has ever been issued by the respondent-management to the workman. There was indeed no privity of contract whatsoever in regard to any matter between the respondent-management and the workman. The workman was not a workman employed by the respondent-management within the meaning of Section 2-S of the Industrial Disputes Act, 1947. There was no administrative, economic and disciplinary control of the respondent-management over the workman. The present reference is not maintainable and is without jurisdiction and liable to be dismissed on the ground that the present subject matter does not fall within the ambit of Section 25-F of the Industrial Disputes Act, 1947 as the workman has never completed 240 days with the respondent-management continuously in any calendar year preceding the date with reference to the date of disengagement. There was no relationship of employer and employee ever existed between the respondent-management and the workman at any point of time. The post of peon were advertised in the newspaper and also placed on the notice board of the respondent-bank in bank's premises. The workman in response to the advertisement applied for the same and interview letter was issued to the workman and he appeared before the interview committee but could not compete with the other candidates with the result workman

could not be selected. It is therefore, respectfully prayed that in view of the above facts and circumstances of the case, the present reference may kindly be dismissed with exemplary costs.

3. Parties were given opportunity to lead evidence.

4. In support of his case, the workman Sh. Rahul has filed his affidavit in evidence as Ex.A1 and has been cross-examined by the learned counsel for management.

5. In support of his case, the management has examined Smt. Renu Govind, Senior Manager, Chandigarh, who has filed her affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned AR of workman.

6. I have heard Sh. B.S. Gill, Ld. Counsel of the workman and Sh. Vishnu Kaushik, Ld. Counsel for the management and perused the file, evidence and documents submitted by both the parties.

7. The workman has filed its written arguments, alleging therein that the workman was appointed as temporary/casual peon-cum-Safai Karamchari at Central Bank of India, Baldev Nagar, Ambala City on 01.11.2010 and worked continuously upto 26.11.2011 continuously. The workman was working against the regular post but the respondent/management terminated the services of the workman on 26.11.2011 without complying with the provisions of Industrial Disputes Act. No notice was given and no compensation for retrenchment was given which is clear violation of Section 25-F of the Industrial Disputes Act and even after the termination of the workman, a new person has been appointed who is a raw hand which is again the violation of Section 25-H of the Industrial Disputes Act. The work and conduct of the workman was satisfactory and there is no complaint against the workman during his service and only with ulterior motive to adjust another person the services of the workman were terminated. Ms. Renu Govind, Senior Manager, Regional Office, Chandigarh has categorically deposed on Oath in his cross-examination that “there was no contract on the record and there is no document with respect to the duty of the workman for 2-3 hours. The workman was paid through cash. She stated that she could not tell where whether his signature was obtained at the time of payment of the cash amount. She stated that she was never posted in the alleged branch where workman rendered his services. She stated that she did not know anything about the service conditions of the workman as she was not posted in the relevant branch. She stated that there was no record with respect to the workman in bank so far as her knowledge is concerned. This clearly shows that above senior officer had no knowledge about the case at all and has deposed hypothetically. It clearly proves that the claim statement of the workman is correct and authentic. The termination of the workman is illegal, arbitrary and against the provisions of the Act and the interview taken vide which new person was appointed in the place of workman was a simple eye wash and without any criteria and the workman was not made permanent and the management adjusted a person in place of workman due to its vested interest. Since the workman had worked in the respondent-bank continuously without any break from 01.11.2010 and worked continuously upto 26.11.2011 therefore, the services of the workman has been terminated in violation of Section 25-F of the Act as no notice has been given or the notice pay in lieu of notice has been paid to the workman. So, there is clearly violation of the provisions of Section 25-F, 25-G and 25-H of the ID Act. Learned counsel has placed reliance in the case of Jasmer Singh Vs. State of Haryana and Anr. Civil Appeal No.346 of 2015(arising out of S.L.P. (C) No.1532 of 2014) decided on 13.01.2015, Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others, Civil Appeal No.6767 of 2013(Arising out of SLP(C) No.6778 of 2012), decided on 12.08.2013 and lastly in the case of Ram Dulari Vs. Industrial Tribunal, Ludhiana and others, CWP No.20653 of 2012(O&M), decided on 17.03.2015. It is therefore, prayed that the termination of the workman dated 26.11.2011 be declared illegal and quashed and the workman be reinstated in service with continuity of service and full back wages.

8. Management filed written arguments, alleging therein that the claim of the workman is false, frivolous, vexatious and has been made with ulterior motives to take undue advantage, harass and humiliate the respondent-management by abusing the process of law because the workman has never been in the employment of management. It is admitted by the workman during cross-examination that **“neither any appointment nor any termination letter was ever issued by the respondent-management to the workman.”** There was indeed no privity of contract whatsoever in regard to any matter between the respondent-management and the workman. As such, the workman was not a workman employed by the respondent-management within the meaning of Section 2-S of the Industrial Disputes Act, 1947. There was no administrative, economic and disciplinary control of the respondent-management over the workman. The workman was working as a casual worker on need basis for cleaning, sweeping and dusting of the branch premises. The job of the workman was hardly for 2-3 hours a day and the workman was paid mutually agreed amount for the day he worked. The present subject matter does not fall within the ambit of Section 25-F as the workman has never completed 240 days with the respondent-management continuously in any calendar year preceding the date with reference to the date of disengagement. There was no relationship of employer and employee ever existed between the respondent-management and the workman at any point of time. The claim of the workman is liable to be dismissed with exemplary costs in view of the factual position explained above.

9. There is no dispute about the preposition of law that onus to prove that workman was in the employment of management is always on the workman/claimant and it is for the workman to adduce evidence to prove factum of his employment with the management. Such evidence may be in the form of receipt of salary of wages for 240 days or record of his/her appointment or engagement for that year to show that he/she has worked with the employer for 240

days or more in a calendar year. In this regard, reference may be made to *Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh(2005) 8 Supreme Court cases 481* as well as *Director Fisheries Terminated Division Vs. Bhikubhai Meghajibhai Gavda(2012) 1 SCC 47.*

10. In his affidavit Ex.A1 the claimant has retreated his case that he was appointed on daily wage basis on contract base. He was paid Rs.100/- per day. He denied the suggestion made by the learned counsel for management that he used to work only for 2-3 hours. No appointment letter was issued to him. He further denied that he did not complete 240 days. Post was advertised during his service and he applied for it. He was called for the interview. He was not selected by the selection committee. His services were not retained when regular employees joined the bank.

11. Thus, it was incumbent upon the workman to prove that he had worked for 240 days preceding the year of his alleged retrenchment on 26.11.2011. Except his bald statement, there is nothing on the record to prove that he had worked for 240 days with the respondent-bank. He could have placed on record vouchers/receipts etc. or other evidence to prove that he was in the employment of the respondent-bank prior to 26.11.2011 and worked upto 240 days in that preceding year. Except his self-serving and bald testimony of the workman, there is nothing on record. The workman was required to summon the relevant record so that he can prove that he had worked for 240 days with the respondent bank and also he could have summoned the record regarding payment of wages to him which could have been summoned easily by filing application with the respondent-bank regarding the fulfillment of the aforesaid pre-requisite eligibility criteria by him but he has failed to summon the aforesaid record.

12. He has also not advanced any cogent explanation for non-summoning the relevant record. It is entirely for workman to prove the completion of 240 days of his service with his employer prior to his retrenchment and protection under Section 25-F of the Act and onus to prove this fact is always on the workman which the workman has failed to prove it.

13. In view of the above observation, it is held that workman has failed to prove that he has worked 240 day with bank prior to his alleged termination on 05.03.2013 in the preceding year.

14. It is added here that workman has moved an application for summoning one witness namely Ashok Aggarwal, Retired Branch Manager, Central Bank of India, but, later on, learned counsel of workman vide his separate statement dated 25.10.2019 stated that he does not want to produce the said witness and closed the evidence of workman. It is also added here that workman had filed an application for summoning of record relating to interview held on 9.2.2013 but he has not pressed the said application and has closed the evidence on 25.10.2019. Thus, the workman has not summoned the relevant record for his working of 240 days with the respondent-management in the preceding year prior to his termination.

15. Moreover, it is the case of the workman that regular vacancies were advertised by the respondent-bank and he applied for the same but he was not selected after interview and someone else was appointed. No evidence has been led by the workman how the said appointment by the bank was not in accordance with law. He was replaced by adopting due procedure by the bank and a regular incumbent was appointed. Thus, on this core also he is not entitled for any relief.

16. As regards the case law cited by the learned counsel of the workman in the case of *Jasmer Singh Vs. State of Haryana and Anr., Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya(supra)* and lastly in the case of *Ram Dulari Vs. Industrial Tribunal, Ludhiana and others(supra)* are concerned, they are not applicable to the facts and circumstances of the present case as the workman has failed to prove that he has worked with the respondent-bank for 240 days in a preceding year prior to 26.11.2011.

17. In view of my findings on the above discussed issues, as discussed in the preceding paragraphs, this reference is decided against the workman.

18. Let copy of this award be sent to Central Government for publication as required under Section 17 of ID Act, 1947.

KAMAL KANT, Presiding Officer

नई दिल्ली, 8 अप्रैल, 2024

का.आ. 677.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **चंडीगढ़- II** के पंचाट (281/2013) प्रकाशित करती है।

[सं. एल-39025/01/2024- आईआर (बी-II)-03]

सलोनी, उप निदेशक

New Delhi, the 8th April, 2024

S.O. 677.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 281/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-II* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-39025/01/2024- IR(B-II)-03]

SALONI, Dy. Director

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH.**

Present: Sh. Kamal Kant, Presiding Officer.

ID No.281/2013

Registered on:-05.07.2013

Amit Kumar, #10-CB, Lal Kurti, Ambala Cantt.

Versus

1. Regional Manager, Central Bank of India, Regional Office, Sector 17-B, Chandigarh.
2. Branch Manager, Central Bank of India, Baldev Nagar, Ambala City, Haryana.

.....Respondents/Managements

AWARD

Passed on:- 16.01.2024

1. The workman Amit Kumar has filed the present claim petition under Section 2-A of the Industrial Disputes Act, 1947 with the averment that the workman was engaged as temporary/casual peon cum Safai Karamchari at Central Bank of India, Baldev Nagar, Ambala City on 28.11.2011 and worked upto 2.3.2013 continuously. The workman was working against the regular post but the respondent/management terminated the services of the workman on 2.3.2013 without complying the provisions of Industrial Disputes Act. No notice was given, no retrenchment was paid which is violation of Section 25-F of the Industrial Disputes Act and even after the termination of the workman, a new person has been appointed who is a raw hand which is violation of Section 25-F of the Industrial Disputes Act. The work and conduct of the workman was satisfactory and there is no complaint against the workman during his service and only with a ulterior motive to adjust a person, the respondent/management terminated the services of the workman. During the employment of workman, the bank advertised the post of peon cum Safai Karamchari and the workman submitted his application on 16.11.2012. The management again advertised the same vacancy and the workman submitted his application on 15.01.2013 which was sent through proper channel and the same was forwarded by Branch Manager after verifying the record. To the utter surprise of the workman, the respondent-bank written a letter dated 24.01.2013 informing the workman that his application cannot be considered as the certificate issued by the Branch Manger is not signed by him, that was not fault of the workman and the workman approached the higher authorities at Chandigarh on 31.01.2013 and on this letter, the workman was issued interview letter dated 5.2.2013 to appear in interview on 8.2.2013 and accordingly, the workman appeared before the Interview Committee and answer all the questions being a Matriculate whereas other persons were of the lower qualification but the interview committee ignore the qualification of the workman and experience of 459 days in the said branch and the interview committee has not fixed any criteria to give the marks for the qualification and the interview and the said interview was only a aye wash to adjust their own persons.

2. The termination of the workman dated 2.3.2013 is wholly illegal, arbitrary and against the provisions of Industrial Disputes Act and the interview taken by the committee is a simply eye wash and without any criteria they have not selected the workman and adjusted the wrong person. It is therefore, prayed that the termination of the workman dated 2.3.2013 be declared illegal and quashed and the workman be reinstated with continuity of service and full back wages.

3. The management has filed written statement, alleging therein that the present reference is not maintainable and is without jurisdiction and liable to be dismissed on the ground that the present subject matter does not fall within the ambit of Section 2-A of the Industrial Disputes Act, 1947. The workman was engaged on purely temporary, contractual and need basis as and when his services were required at a mutually agreed contractual amount of Rs.100/- per day for sweeping, cleaning and dusting of the branch premises. The job of the workman was hardly for 2-3 hours a day and the workman was paid the day he worked. The workman had worked intermittently with the

respondent-management. The services of the workman were never terminated but his contract of job was not renewed. Non-renewal of contract of job does not amount to retrenchment. The present reference deserves to be dismissed on the ground that the claim of the workman is false, frivolous, vexatious and has been dismissed with ulterior motive to take undue advantage, harass and humiliate the respondent-management by abusing the process of law because the workman has never been in the employment of respondent-management. Neither any appointment nor any termination letter has ever been issued by the respondent-management to the workman. There was indeed no privity of contract whatsoever in regard to any matter between the respondent-management and the workman. The workman was not a workman employed by the respondent-management within the meaning of Section 2-S of the Industrial Disputes Act, 1947. There was no administrative, economic and disciplinary control of the respondent-management over the workman. The present reference is not maintainable and is without jurisdiction and liable to be dismissed on the ground that the present subject matter does not fall within the ambit of Section 25-F of the Industrial Disputes Act, 1947 as the workman has never completed 240 days with the respondent-management continuously in any calendar year preceding the date with reference to the date of disengagement. There was no relationship of employer and employee ever existed between the respondent-management and the workman at any point of time. The post of peon were advertised in the newspaper and also placed on the notice board of the respondent-bank in bank's premises. The workman in response to the advertisement applied for the same and interview letter was issued to the workman and he appeared before the interview committee but could not compete with the other candidates with the result workman could not be selected. It is therefore, respectfully prayed that in view of the above facts and circumstances of the case, the present reference may kindly be dismissed with exemplary costs.

4. Parties were given opportunity to lead evidence.

5. In support of his case, the workman Sh. Amit Kumar has filed his affidavit in evidence as Ex.A1 and has been cross-examined by the learned counsel for management. The workman has also examined Sh. Rahul Khakhral, Manager(HRD), Central Office, Central Bank of India, Mumbai, who was the summoned witness of workman and has been examined by the learned counsel of workman and stated in his cross-examination that he had seen photocopy of the certificate Mark A which do not bears his signatures. However, this is the blank signature form is filled in his hand. He was not posted during the period in the branch for which this Certificate was issued. There was no permanent employees working as Peon in the branch. The workman used to attend the office in March 2013. The workman was working for two hours as safai sewak and he was satisfied with his work. The workman was not working as a Peon and for the whole day. This witness was also cross-examined by the learned counsel of management and stated that no appointment letter or termination letter was issued to the workman. The workman was not appointed by following any procedure. Some posts of Peon were advertised while they were working in the office. When regular persons were appointed the workman stopped coming to the office. The workman has not completed 340 days during his tenure and the workman even did not complete 240 days.

6. In support of his case, the management has examined Smt. Renu Govind, Senior Manager, Chandigarh, who has filed her affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned AR of workman.

7. I have heard Sh. B.S. Gill, Ld. Counsel for the workman and Sh. Vishnu Kaushik, Ld. Counsel for the management and perused the file, evidence and documents submitted by both parties.

8. The workman has filed its written arguments, alleging therein that the workman was appointed as temporary/casual peon-cum-Safai Karamchhari at Central Bank of India, Baldev Nagar, Ambala City on 28.11.2011 and worked continuously upto 2.3.2013 continuously. The workman was working against the regular post but the respondent/management terminated the services of the workman on 2.3.2013 without complying with the provisions of Industrial Disputes Act. No notice was given and no compensation for retrenchment was given which is clear violation of Section 25-F of the Industrial Disputes Act and even after the termination of the workman, a new person has been appointed who is a raw hand which is again the violation of Section 25-H of the Industrial Disputes Act. The work and conduct of the workman was satisfactory and there was no complaint against the workman during his service and only with ulterior motive to adjust another person the services of the workman were terminated. Sh. Rahul Khakhral, former Branch Manager, Baldev Nagar, Ambala Cantt. branch, where the workman was employed has categorically stated in his examination in chief that the form of experience certificate marked as A was filled in his own hands and aforementioned certificate rightly been issued and signed by the head cashier of the branch who was working during the period which the workman had worked in the branch. The witness of the management Ms. Renu Govind, Senior Manager, Regional Office, Chandigarh has categorically deposed on Oath in his cross-examination that "there was no contract on the record and there is no document with respect to the duty of the workman for 2-3 hours. The workman was paid through cash. She stated that she could not tell whether his signatures were obtained at the time of payment of the cash amount. She stated that she was never posted in the alleged branch where workman rendered his services. She stated that she did not know anything about the service conditions of the workman as she was not posted in the relevant branch. She stated that there was no record with respect to the workman in bank so far as her knowledge is concerned. This clearly shows that above senior officer had no knowledge about the case at all and has deposed hypothetically. It clearly proves that the claim statement of the workman is correct and authentic. The termination of the workman is illegal, arbitrary and against the provisions of the Act and the interview taken vide

which new person was appointed in the place of workman was a simple eye wash and without any criteria and the workman was not made permanent and the management adjusted a person in place of workman due to its vested interest. Since the workman had worked in the respondent-bank continuously without any break from 28.11.2011 and worked continuously upto 2.3.2013 therefore, the services of the workman has been terminated in violation of Section 25-F of the Act as no notice has been given or the notice pay in lieu of notice has been paid to the workman. Similarly, neither the retrenchment compensation has been paid in accordance with the provisions of Section 25-F, 25-G and 25-H of the Act. Learned counsel has placed reliance in the case of Jasmer Singh Vs. State of Haryana and Anr. Civil Appeal No.346 of 2015(arising out of S.L.P. (C) No.1532 of 2014) decided on 13.01.2015, Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others, Civil Appeal No.6767 of 2013(Arising out of SLP(C) No.6778 of 2012), decided on 12.08.2013 and lastly in the case of Ram Dulari Vs. Industrial Tribunal, Ludhiana and others, CWP No.20653 of 2012(O&M), decided on 17.03.2015. It is therefore, prayed that the termination of the workman dated 05.03.2013 be declared illegal and quashed and the workman be reinstated in service with continuity of service and full back wages.

9. Management filed written arguments, alleging therein that the claim of the workman is false, frivolous, vexatious and has been made with ulterior motives to take undue advantage, harass and humiliate the respondent-management by abusing the process of law because the workman has never been in the employment of management. It is admitted by the workman during cross-examination that ***“neither any appointment nor any termination letter was ever issued by the respondent-management to the workman.”*** There was indeed no privity of contract whatsoever in regard to any matter between the respondent-management and the workman. As such, the workman was not a workman employed by the respondent-management within the meaning of Section 2-S of the Industrial Disputes Act, 1947. There was no administrative, economic and disciplinary control of the respondent-management over the workman. The workman was working as a casual worker on need basis for cleaning, sweeping and dusting of the branch premises. The job of the workman was hardly for 2-3 hours a day and the workman was paid mutually agreed amount for the day he worked. The present subject matter does not fall within the ambit of Section 25-F as the workman has never completed 240 days with the respondent-management continuously in any calendar year preceding the date with reference to the date of disengagement. There was no relationship of employer and employee ever existed between the respondent-management and the workman at any point of time. The claim of the workman is liable to be dismissed with exemplary costs in view of the factual position explained above.

10. There is no dispute about the preposition of law that onus to prove that workman was in the employment of management is always on the workman/claimant and it is for the workman to adduce evidence to prove factum of his employment with the management. Such evidence may be in the form of receipt of salary of wages for 240 days or record of his/her appointment or engagement for that year to show that he/she has worked with the employer for 240 days or more in a calendar year. In this regard, reference may be made to Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh(2005) 8 Supreme Court cases 481 as well as Director Fisheries Terminated Division Vs. Bhikubhai Meghajibhai Gavda(2012) 1 SCC 47.

11. In his affidavit Ex.A1 the claimant has retreated his case that he was appointed on daily wage basis on contract base. He was paid Rs.100/- per day. He denied the suggestion made by the learned counsel for management that he used to work only for 2-3 hours. No appointment letter was issued to him. He further denied that he did not complete 240 days. Post was advertised during his service and he applied for it. He was called for the interview. He was not selected by the selection committee. His services were not retained when regular employees joined the bank.

12. Thus, it was incumbent upon the workman to prove that he had worked for 240 days preceding the year of his alleged retrenchment on 2.3.2013. Except his bald statement, there is nothing on the record to prove that he had worked for 240 days with the respondent-bank. He could have placed on record vouchers/receipts etc. or other evidence to prove that he was in the employment of the respondent-bank for 240 days in that preceding year to 2.3.2013. Except his self-serving and bald testimony of the workman, there is nothing on record. The workman has examined Rahul Khakhral, Manager(HRD), Central Office, Central Bank of India, Mumbai, but, personally he is not the witness of record therefore, it could not proved from the statement of this witness that workman had worked for 240 days in the preceding year of his alleged termination on 2.3.2013. The workman was required to summon the relevant record so that he can prove that he had worked for 240 days with the respondent bank and also he could have summoned the record regarding payment of wages to him which could have been summoned easily by filing application with the respondent-bank regarding the fulfillment of the aforesaid pre-requisite eligibility criteria by him but he has failed to summon the aforesaid record. As regards Mark A, the Certificate placed showing that workman Amit Kumar has worked from November, 2011 to October, 2012. The said certificate was shown to Sh. Rahul Khukhral, Manager, HRD during his cross-examination but he has stated that this certificate do not bears his signature as such, the certificate Mark A is inadmissible in evidence.

13. He has also not advanced any cogent explanation for non-summoning the relevant record. It is entirely for workman to prove the completion of 240 days of his service with his employer prior to his retrenchment and protection under Section 25-F of the Act and onus to prove this fact is always on the workman which the workman has failed to prove it.

14. In view of the above observation, it is held that workman has failed to prove that he has worked 240 day with bank prior to his alleged termination on 02.03.2013 in the preceding year.

15. Moreover, it is the case of the workman that regular vacancies were advertised by the respondent-bank and he applied for the same but he was not selected after interview and someone else was appointed. No evidence has been led by the workman how the said appointment by the bank was not in accordance with law. He was replaced by adopting due procedure by the bank and a regular incumbent was appointed. Thus, on this core also he is not entitled for any relief.

16. As regards the case law cited by the learned counsel of the workman in the case of Jasmer Singh Vs. State of Haryana and Anr., Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya(supra) and lastly in the case of Ram Dulari Vs. Industrial Tribunal, Ludhiana and others(supra) are concerned, they are not applicable to the facts and circumstances of the present case as the workman has failed to prove that he has worked with the respondent-bank for 240 days in a preceding year prior to 02.03.2011.

17. In view of my findings on the above discussed issues, as discussed in the preceding paragraphs, this reference is decided against the workman.

18. Let copy of this award be sent to Central Government for publication as required under Section 17 of ID Act, 1947.

KAMAL KANT, Presiding Officer

नई दिल्ली, 8 अप्रैल, 2024

का.आ. 678.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कॉर्पोरेशन बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **चंडीगढ़-II** के पंचाट (04/2019) प्रकाशित करती है।

[सं. एल-39025/01/2024- आईआर (बी-II)-04]

सलोनी, उप निदेशक

New Delhi, the 8th April, 2024

S.O. 678.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 04/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-II* as shown in the Annexure, in the industrial dispute between the management of Corporation Bank and their workmen.

[No. L-39025/01/2024- IR(B-II)-04]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Sh. Kamal Kant, Presiding Officer.

ID No. 04/2019

Registered on:- 02.04.2019

Sh. Udham Singh S/o Sh. Banarsi Dass, R/o Village Chamroudi, Tehsil Radaur, District Yamuna Nagar(Haryana).

.....Workman

Versus

1. The Branch Manager Corporation Bank, Near Anaj Mandi, S.K. Road, Radaur, District Yamuna Nagar(Haryana).
2. M/s Secured Security Solutions Pvt. Ltd. Branch Office, Plot No.362, First Floor, Industrial Area, Phase-I, Chandigarh-160002.

.....Respondents/Managements

AWARD

Passed On:- 18.12.2023

1. The workman Udham Singh has directly filed this claim petition under Section 2-A of the Industrial Dispute Act 1947(hereinafter called the Act) for reinstatement in service with all consequential benefits.

2. Today i.e. 18.12.2023 the case was fixed for filing replication by the workman but none is responding on behalf of workman while several opportunities have already been given to the workman for which shows that the workman is not interested in adjudication of the matter on merit.

3. Since the workman has neither put his appearance for long nor he has filed any replication to prove his cause against the management and has left the case unattended since long as such, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present reference for the non-prosecution of workman.

4. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 8 अप्रैल, 2024

का.आ. 679.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, II - दिल्ली के पंचाट (39/2023) प्रकाशित करती है।

[सं. एल-39025/01/2024- आईआर(बी-II)-06]

सलोनी, उप निदेशक

New Delhi, the 8th April, 2024

S.O. 679.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 39/2023) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -II Delhi* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-39025/01/2024- IR(B-II)-06]

SALONI, Dy. Director

ANNEXURE

BEFORE SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-CUM-LABOUR COURT NO. II, NEW DELHI

ID.NO. 39/2023

Sh. Punjab Singh,

R/o Shampu Ka Pura, Morena, Madhya Pradesh-476001

.....Claimant / workman

Versus

Punjab National Bank,

Saket, Meerut, Uttar Pradesh-250003.

.....Management

AWARD

Sh. **Sushil Kumar** had sent the reference to this tribunal for adjudication with the following words.

"Whether denial of duty to Shri Punjab Singh by the management of Punjab National Bank is unfair, arbitrary, illegal and/or unjustified, if yes, what directions are necessary in this respect and what relief the applicant is entitled to?"

After receiving the said reference, notice was issued to both the party i.e. **Punjab Singh** and **Punjab National Bank**. One **Ravi Mishra** for the Punjab National Bank has been appearing on the date, however, the claimant have not come forward to file his claim before this tribunal, despite, providing a number of opportunity.

In these circumstances, this tribunal has no option except to pass the no disputant award. Hence no disputant award is passed accordingly. A copy of this award is hereby send to the appropriate government for notification under section 17 of the I.D. Act 1947.

PUNJAB SINGH, Presiding Officer

नई दिल्ली, 8 अप्रैल, 2024

का.आ. 680.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टैंडर्ड चार्टर्ड बैंक के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, II - दिल्ली के पंचाट (152,153,154/2021) प्रकाशित करती है।

[सं. एल-12025/01/2024- आईआर(बी-1)-147]

सलोनी, उप निदेशक

New Delhi, the 8th April, 2024

S.O. 680.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 152,153,154/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -II Delhi* as shown in the Annexure, in the industrial dispute between the management of Standard Chartered Bank and their workmen.

[No. L-12025/01/2024- IR(B-I)-147]

SALONI, Dy. Director

ANNEXURE

BEFORE SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-CUM-LABOUR COURT NO. II, NEW DELHI

ID.NO. 152/2021

Sh. Sanjeev Kumar, S/o Sh. Vijay Pal Singh,

R/o F-247, Gali No. 09, Molarband, Extn. Badarpur,
Delhi -110044.

Through- All India General Mazdoor Trade Union,

170, Bal Mukund Khand, Giri Nagar, Kalkaji, ...Applicant/Claimant

I.D. No.153/2021

Sh. Haripal Singh, S/o Sh. Rattan Singh,

R/o House No.-G-12/506, Sangam Vihar, Delhi-110080.

Through- All India General Mazdoor Trade Union,

170, Bal Mukund Khand, Giri Nagar, Kalkaji,
New Delhi-110019. ...Applicant/Claimant

I.D. No. 154/2021

Sh. Manjeet Kumar, S/o Sh. Kartal Singh,

R/o House No. 29, Near Shiv Mandir, Chirag Delhi, Delhi-110017.

Through – All India General Mazdoor Trade Union,

170, Bal Mukund Khand, Giri Nagar, Kalkaji, ...Applicant/Claimant

VERSUS

- The Manager, Standard Chartered Bank,**
M-01, South Extn. Part-02, New Delhi-110049.
- The Managing Director, Xerox Indian Ltd.,**
5th Floor, Block- 01, Vatika Business Park-49,
Sohna Road, Gurgaon-122018,

3. The Managing Director, Thakkar Manpower Services Pvt. Ltd.,

Sh. Sandeep Thakkar S/o Sh. Basant Lal Thakkar,
C-03/257, Backside Ground Floor, Janak Puri, New Delhi-110058.

Also At: A-152/01, 1st Floor, Plot No. 33, Ganesh Nagar,
New Delhi-110018.

AWARD/ORDER DATED

By this Composite order I shall dispose of these three cases filed by the claimant. These cases have been taken together for disposal because in all the cases respondent are same. Issues are also same. Only the workmen are different.

Workmen have been working with management No. 1 through contractor and sub-contractor **Messers-Xerox India Ltd. and Thakkar Manpower Services Pvt. Ltd.** as photocopy machine operators as well as photo state machine maintenance since July 1997, January 2005 and January 2017 respectively. During their services they have not given any chance to complain to anyone. Management has deprived them from legal facilities. These cases have been pending for collective demand before Sh. **Rajiv Mehra**, Ld. Presiding Officer Industrial Tribunal. For this reason management had given notice on 01.10.2020 for terminating their services without taking the permission of the concerned tribunal on 07.10.2020. Workmen had sent the demand notice through speed post to the management on 08.10.2020 for taking back them on duty but management had not given any reply nor they have been taken back on duty. Workmen had sent through their union, a written complaint to the regional Assistant Commissioner but management had not produced the record of the workman before the Labour inspector. Hence, the workmen had filed their claim with prayer to take back them on duty with full back wages.

Respondent No. 1 has not appeared and ultimately he was proceeded ex-parte vide order date 6th May 2022. Respondent No. 2&3 had filed their respective written statement denying the averment made by the claimant in their claim petition. Respondent No. 2 had stated that there exist no relationship of the employer and employee between the respondent No. 2 and the claimant. Respondent no-3 had informed the respondent No. 2 that he had paid the workmen their full and final settlement amount.

Respondent No. 3 had taken the preliminary objection about maintainability of the petition on the ground that no relationship between employee and employer have been existed and claim is liable to be dismissed.

From the pleadings of the party vide order dated 21.09.2022 following issues have been framed:

1. Whether the proceeding is maintainable.
2. Whether there exist employer and employee relationship between the management No. 1&2 and the claimant.
3. Whether service of the claimant was illegally terminated and if so, by whom.
4. To what relief, the claimant is entitled to.

Claimant is asked to examine the witness. Even the witnesses are present. However, this court has asked from the workman AR how the claim of the workmen are maintainable before this tribunal because none of the respondent is the central government institutions or industry. Respondent No. 1 is the manager, Standard Chartered Bank. Respondent No. 2 is the managing director, Xerox India Ltd., Respondent No. 3 is the managing director, Thakkar Manpower Pvt. Ltd.

Section-2 a of I.D Act (hereinafter is called as an Act) define the expression 'appropriate government'.

Appropriate government is the central government in relation to any industrial dispute which pertain to any industry carried on by all under the authority of central government.

Section-2(a)(1) of the Act give the detail expression of covering the industry which falls under the definition of central government controlled industry. It is reproduced

'in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by a railway company [or concerning any such controlled industry as may be specified in this behalf by the Central Government] or in relation to an industrial dispute concerning [a Dock Labor Board established under Section 5A of the Dock workers (Regulation of Employment) Act, 1948 (9 of 1948), or [the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956 (1 of 1956)] or the Employees State Insurance Act, 1948 (34 of 1948), or the Board of Trustees constituted under section 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or the Central Board of Trustees and the State Boards of Trustees constituted under section 5A and section 5B, respectively, of the Employees Provident Fund and Miscellaneous provisions Act, 1952 (19 of 1952), or the Life Insurance

Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), or [the Oil and Natural Gas Corporation Limited registered under the companies Act, 1956 (1 of 1956)], or the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), or the Central Warehousing Corporation established under section 3 of the Warehousing Corporations Act, 1962 (58 of 1962), or the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963 (52 of 1963), or the Food Corporations of India established under section 3, or a Board of Management established for two or more contiguous States under section 16, of the Food Corporation Act, 1964 (37 of 1964), or [the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994 (55 of 1994), or a Regional Rural banks Act, 1976 (21 of 1976), or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Bank of India Limited], [the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987)], or [[an air transport service, or a banking or an insurance company,] a mine, an oil field,] [a cantonment Board,] or a [major port, any company in which not less than fifty-one percent of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by parliament, or the Central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, and]

Ld. AR of the workman is unable to tell how this tribunal has the jurisdiction to try their claim particularly when the appropriate government is not the central government in respect of the respondent herein. Ld. AR has only stated that the Sh. Santosh Kumar Assistant Commissioner (Central) Delhi-III had given the failure report U/s 2 A of the Act and for this reason he had filed their claim. He further asserted that this tribunal has the jurisdiction in view of the failure report given by the Assistant Commissioner (Central).

Section-2 A have been inserted by Act 35 of 1965 in the Act and provide that the dismissal, discharge, retrenchment and termination of individual employee/workman shall be deemed to be an Industrial Dispute and give an option to the workmen to file the claim directly by filing an application to the labour court or tribunal for adjudication. However, it is subject to the condition that first, he will make an application to the conciliation officer of the appropriate government for conciliation of the dispute. However, the application has to be made before the tribunal after expiry of the Forty-five days of moving the application before the conciliation officer.

Section-2 A of the Act is reproduced herein for the sake of convenience

'[2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute. [(1)] where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute]'

Section 2 A (2) which has been inserted by Act 24 of 2010 has categorically mentioned that the application has to be made to the conciliation officer of the appropriate government. However, the Assistant Commissioner (Central) Delhi-III is not the conciliation officer of the appropriate government herein because none of the respondent has come within the definition of the Central Government. He has exercised the jurisdiction which has not been vested upon it.

Even the case of the claimant is that Industrial Dispute of general demand is pending before the Industrial Tribunal of State of NCT of Delhi headed by Sh. Rajiv Mehra.

In these circumstances, this tribunal has found that it has no jurisdiction to try the claim of the workmen. Hence, the claim of the workmen stand dismissed for want of jurisdiction. Award is accordingly passed. A copy of this award is sent to appropriate government for notification under section 17 of the I.D. Act. A copy of this award is also sent to the Central Labour Commissioner for information and action.

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 8 अप्रैल, 2024

का.आ. 681.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केंद्रीय लोक निर्माण विभाग के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, II - दिल्ली के पंचाट (68/2021) प्रकाशित करती है।

[सं. एल-12025/01/2024- आईआर(बी-I)-146]

सलोनी, उप निदेशक

New Delhi, the 8th April, 2024

S.O. 681.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 68/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -II Delhi* as shown in the Annexure, in the industrial dispute between the management of Central Public Work Department and their workmen.

[No. L-12025/01/2024- IR(B-I)-146]

SALONI, Dy. Director

ANNEXURE

BEFORE SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-CUM-LABOUR COURT NO. II, NEW DELHI

I.D. No. 68/2021

Sh. Dharmender Kumar & Others,

Through- The President Sh. Hukum Chand,

CPWD Karamchhari Union, Babu Lal Ji Complex,

Shop No. 04, Gurgaon Road, Opposite Bust Stand,

Gurgaon Haryana- 122001.

.....Claimants / workmen

Versus

- 1. The Director General,
Central Public Work Department,
Nirman Bhawan, New Delhi-110001.**
- 2. The Superintendent Engineer (E),
Circle IX East Block, R.K. Puram, New Delhi-110022.**
- 3. Asst. Engineer C.P.W.D. Electrical,
Plot No. 89-A, Sector-18 Gurgaon-122015.**
- 4. Executive Engineer C.P.W.D. Electrical,
Division – VII, East Block R.K Puram, New Delhi.**
- 5. Shakha Electrical India,
26, 1st Floor, Gurunanak Market, Vikram Vihar Extension,
Lajpat Nagar, New Delhi- 110024.**
- 6. Harish Electricals,
House No.-235, Shahbad Mohammadpur,
Near Central Bank of India, New Delhi-110061.**
- 7. Void Fire Consultants,
5B/2, 1st Floor Tilak Nagar, New Delhi-1 ...Managements/Respondents**

AWARD

This is an application Under Section 2A of the I.D Act whereby, the applicants made prayer that their termination from the services by the management which be declare illegal and unjustified and they are requested for reinstatement with full back wages. It is the case of the applicants/workmen that they have been working with the management. They were treated as a daily rated/ casual/ must roll worker and were being wages as fixed and never revised from time to time under the Minimum Wages Act. They were supposed to be regularized since their respective initial date of joining but the management has never regularized them till now. The above action of the management is wholly illegal, bad, unjust and malafide. The demand notice was served upon to the managements, but no reply was received and it was presumed that the demand has been rejected. They have initiated the conciliation proceedings but, no result. Hence, they had filed the present claim petition.

Management No. 5, 6 and 7 have not appeared as they were proceeded ex-parte vide order dated 27.09.2022. However, the management No. 1, 2, 3 and 4 have appeared and filed the WS. They denied the averment made by the claimant in his claim petition. Despite providing a number of opportunities, claimant has not appeared to substantiate his claim.

In these circumstances, this tribunal has no option except to pass the no disputant award. Hence, no disputant award is passed. File is consigned to the record room. A copy of this award is hereby sent to the appropriate government for notification under section 17 of the I.D Act 1947.

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 682.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्व मध्य रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (30/2017) प्रकाशित करती है।

[सं. एल-41012/06/2016- आईआर(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 9th April, 2024

S.O. 682.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 30/2017) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of South Eastern Central Railway and their workmen.

[No. L-41012/06/2016- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/30/2017

Present: P.K. Srivastava

H.J.S..(Retd)

Shri Bhumeshwar Patil S/o Sh. Kisandas,

Ward No. 5, Lodhikheda, Teh- Saunser,

Dist- Chhindwara, (M.P)

Workman

Versus

The Divisional Railway Manager,

South Eastern Central Railway,

Nagpur Division, Kingsway,

Station Road, Nagpur – 440001

Management

AWARD**(Passed on this 18Th day of January 2024.)**

As per letter dated 30/03/2017 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-41012/06/2016 (IR(B-I)) dt. 30/03/2017 . The dispute under reference related to :-

"क्या मंडल रेल प्रबंधक, दक्षिण पूर्व मध्य रेल्वे, नागपुर (महाराष्ट्र) द्वारा श्री भुमेश्वर पाटिल, आत्मज किसन दास, सफाईकर्मियों को उनके द्वारा वर्ष 2011 में सौंसर, जिला छिंदवाडा रेल्वे स्टेशन पर दावा किए गए कुल 6 महीने 20 दिन की सेवा-अवधि के पश्चात कार्य से बंद किया जाना उचित है? यदि नहीं, तो आवेदक क्या अनुतोष पाने हेतु पात्र है?"

After registering the case on reference received, Notices were sent to the parties and were duly served on them. Parties filed their respective statement of claim and defence. In spite of so many dates given to the parties none of the parties adduced any of the evidence oral or documented. Perused record reference is the issue for determination. Initial burden to prove his claim is on the workman in which he has failed, holding the claim of the workman is not proved. The reference deserves to be answered against the workman and is answered accordingly.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 683.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधक, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (50/2013) प्रकाशित करती है।

[सं. एल-12012/97/2012- आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 9th April, 2024

S.O. 683.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 50/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of Bank of Maharashtra and their workmen.

[No. L-12012/97/2012- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/50/2013

Present: P.K.Srivastava

H.J.S..(Retd)

Dainik Vetan Bhogi Bank Karmchari Sangathan,

Central Office, F-1. Karmbhoomi, Tripti Vihar,

Opposite Engineering College, Ujjain.

Ujjain (M.P)

Workman

Versus

Regional Manager.

Bank of Maharashtra. Regional Office,

1/14, Administrative Zone, Arera Hills, Bhopal.

BHOPAL(M.P.)

Management

AWARD

(Passed on this 05Th day of January-2024.)

As per letter dated 05/03/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12012/97/2012(IR(B-II)) dt. 05/03/2013. The dispute under reference related to :-

"Whether Shri Sagar Soni is entitled for pay scale of 9th Bipartite Settlement between the union and the Bank? What relief he is entitled to?"

After registering the case on reference received, Notices were sent to the parties and were duly served on them.

Case of the workman, in his statement of claim is that he worked in the Timarni branch of the bank as peon since May 2010 for eight hours daily and was paid wages at the rate of rupees one hundred per day. He was denied wages payable to the regular employees doing the same job in the bank.

Case of management is mainly that in 9th Bipartite Settlement between Indian Bank Association and Employees Union, daily wager or casual labour are not considered for the benefits admissible in the settlement. Hence a workman is not entitled to parietal pay with regular employees.

As the dispute involves law points only, no affidavit, counter affidavit was filed by parties and argument of Learned Counsel for both the parties have been heard. All the records have been perused by me.

After having gone through 9th Bipartite Settlement, It comes out that casual worker and daily wagers are not covered in this agreement. Hence holding that the workman is not entitled to parietal pay with regular employees as mentioned in 9th Bipartite Settlement, the reference deserves to answer against the workman and is answered accordingly.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 684.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचा (06/2020) प्रकाशित करती है।

[सं. एल-12011/70/2019- आईआर(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 9th April, 2024

S.O. 684.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 06/2020) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/70/2019- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPURNO. CGIT/LC/R/06/2020Present: P.K.SrivastavaH.J.S.(Retd)

The General Secretary,
Dainik Vetan Bhogi Bank Karmchari Sangathan,
F-1, Tripti Vihar, Opp. Engg. College,
Ujjain (MP)-456001

Workman

Versus

The Chief General Manager,
State Bank of India, Local Head Office,
Hoshangabad Road,
Bhopal (MP)-462004

Management

AWARD

(Passed on this 19Th day of February-2024.)

As per letter dated 23/12/2019 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/70/2019 (IR(B-I)) dt. 23/12/2019 . The dispute under reference related to :-

“ Whether the demand of union claiming difference of wages w.e.f. 1.12.1997 to September 1998 and regularization of service in favour of Shri Nandram Kure daily wage workman is justified or not? If so, what relief the daily wagger is entitled for? ”

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of allotment of time and service of notice , the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 685.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (06/2019) प्रकाशित करती है।

[सं. एल-12011/22/2018- आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 9th April, 2024

S.O. 685.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 06/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/22/2018- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/06/2019

Present: P.K.Srivastava

H.J.S..(Retd)

**The General Secretary,
Dainik Vetan Bhogi Bank Karmchari Sangathan,
F-1, Tripti Vihar, Opp. Engg. College,
Ujjain (MP)-456010**

Workman

Versus

**The Branch Manager,
State Bank of India,
Neemuch (MP)-458441**

Management

AWARD

(Passed on this 09Th day of February-2024.)

As per letter dated 18/12/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/22/2018(IR(B-I)) dt. 18/12/2018 . The dispute under reference related to :-

"Whether the following allegations made by the union, Dainik Vetan Bhogi Bank Karmchari Sangathan, against the management of State Bank of India, Neemuch, in the matter of Smt. Madhu Narwale, are amounts to unfair labour practice under I.D Act.?

- a.) Not giving appointment letter and not giving termination letter.**
- b.) Payment was not made as per pay scale/skill wage.**
- c) Minimum Wages not paid.**
- d). Muster Roll has not been maintained as per Section 25-D of ID Act.**
- e.) Applicants have worked 240 days in a year.**
- f.) After working for 06 days, the Wages for weekly off and National Holidays 26th January, 15th Aug were deducted.**

If yes, what relief the workman is entitled to?"

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of allotment of time and service of notice , the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 686.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (06/2018) प्रकाशित करती है।

[सं. एल-12011/04/2017-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 9th April, 2024

S.O. 686.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 06/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12011/04/2017- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/06/2018

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Dainik Vetanbhogi Bank Karamchari Sanghatan,

F-1, Trupti Vihar, Indore Road,

Ujjain(MP) - 456010

Workman

Versus

The Zonal Manager,

Central Bank of India,

Zonal Office, 9, Arera Hills, Jail Road,

BHOPAL(M.P.) - 462 001

Management

AWARD

(Passed on this 02Th day of January-2024.)

As per letter dated 30/01/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/04/2017-IR(B-II) dt.30/01/2018. The dispute under reference related to :-

"(1) Whether the demand made by the Union for payment of Bonus in respect of Mr. Hardev Prasad(Daily Wage Worker) by the Central Bank of India for the period from 13.04.1994 to 19.10.1997 for Rs. 1375/- is justified or not?

(2) Whether the ex-workman has worked for at least 30 days each financial year or not to make him eligible for payment of bonus?

(3) Whether the claim made by the Union for payment of bonus to Mr. Hardev Prasad for the period from 13.04.1994 to 19.10.1997 is barred by limitation as per Section 21 of payment of Bonus Act, 1965 read with Article 7 of Limitation Act, 1963 or not? "

After registering the case on reference received, Notices were sent to the parties and were duly served on them. In Spite of service of notices, the workman never appeared nor did he file any statement of claim, management also did not file any written statement of defense. Although management was present several times.

Since None of the parties filed any pleading nor did file any evidence, holding the claim of workman not proved the reference deserves to be dismissed and is answered accordingly.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 687.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचा (19/2012) प्रकाशित करती है।

[सं. एल-39025/01/2024- आईआर(बी-II)-01]

सलोनी, उप निदेशक

New Delhi, the 9th April, 2024

S.O. 687.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 19/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of Bank of Maharashtra and their workmen.

[No. L-39025/01/2024- IR(B-II)-01]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/RC/19/2012

Present: P.K.Srivastava

H.J.S..(Retd)

Sagar Soni

Daily wager worker,

Bank of Maharashtra,

Timarni Dist- Harda

APPLICANT

Versus

Managing Director,

Bank of Maharashtra,

Shivaji Nagar, Pune

NON-APPLICANTS

ORDER/AWARD**(Passed on this 05th day of January-2024.)**

1. The workman Sagar Soni has filed the petition under section 2A (2&3) of Industrial Disputes Act 1947 challenging his disengagement on the ground that in spite of the fact that he worked continuously from May 2010 was terminated without any notice and compensation on 29 August 2011 which is violation of Section 25(F) of Industrial Disputes Act 1947. He has claimed his reinstatement with back wages & benefits.
2. After registering a case on the basis of the petition, notices were sent to the parties.
3. Parties appeared and filed their respective statements of claim and defence.
4. Case of management moving is that the workman was a daily wager casual labour engaged for cleaning of bank premises but never worked continuously 240 days preceding the date of his termination hence non entitled to any notice and compensation bank has requested that claim be answered against the workman.
5. In evidence, workman has filed his affidavit corroborating his case and has produced Exhibit W1 and Exhibit W2 to show that he was paid bonus for this period. He has been cross examined by management.
6. Management has filed an affidavit of its witness who never turned up for cross examination.
7. I have heard arguments from both sides and gone through records.
8. The issue which arises for determination is whether the workman worked 240 days in the year presiding date of his termination.
9. Workman has corroborated his case in his affidavit stating that he worked continuously from May 2010 to 29 August 2011 where he was terminated by the bank. Document Exhibit W1 and W2, Bonus payment document corroborated his case that he worked for 269 days in the period between August 2010 to August 2011. There is nothing in his cross examination to discredit him on this point. On the other hand is the affidavit of a management witness who never turned up for cross examination.
10. It is not disputed that the workman was not given any notice or compensation.
11. In the light of the above discussion. The action of management disengaging the workman is held against law.
12. On the point of referred claim, since the workman was not appointed against regular vacancy following selection procedure and since he was only a casual daily wager, his reinstatement will not be a justified relief rather keeping in view all the circumstances. A lump sum compensation of Rupees Forty Thousands (40,000/-) in lieu all his claims including cost of litigation will meet the ends of justice to which workman is held entitled.
13. Petition is disposed accordingly.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 688.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **कानपुर** के पंचाट (101/2012) प्रकाशित करती है।

[सं. एल-12011/32/2012-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 9th April, 2024

S.O. 688.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 101/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kanpur* as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen.

[No. L-12011/32/2012- IR(B-II)]

SALONI, Dy. Director

ANNEXURE**Before Shri Soma Shekhar Jena, Presiding Officer****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT****KANPUR****PRESENT****SOMA SHEKHAR JENA****HJS (Retd.)****I.D. No. 101 of 2012****L-12011/32/2012-IR(B-II) dated 03.12.2012****BETWEEN**

The Secretary,

Union Bank Employees Union (U.P),

C/O Union Bank of India, Swarupagar,

Kanpur (U.P):-

AND

The Asstt. General Manager,

Union Bank of India, Regional Office,

117/H-1/240, Pandu Nagar,

Kanpur

AWARD

This award arises on the Industrial Dispute (stated under the schedule below) communicated to this Tribunal by notification no. L- 12011/32/2012-IR(B-II) dated 03.12.2012

SCHEDULE

1. ***“Whether the action of management in not making payment of Pass Book/Statement of accounts writing allowance to the employees as per Staff Circular NO. 1316 dated 12.06.1972 and 1293 dated 15.04.1972 since last several years as a result of computerization, is justified and legal? What relief the workmen doing the said job are entitled to and from which date?”***

In brief the averments of the claimant union submitted in the state of claim are reproduced as here-in-after :-

The bank was paying allowance for writing passbook and statement of accounts as per the Bipartite settlement dated 19.10.1966. In staff circular no. 1293 and 1316 allowances payable to the employees of the bank have been mentioned. In circular no. 3100 dated 02.11.1979 the management of the bank issued instructions with regard to the allowances. After introduction of core banking solution all the clerks have been designated as single window operator A & B with obligation of updating the passbook of the customers and providing them statements of accounts. It is further averred that the management of the bank has not withdrawn the allowances since the Bipartite settlement dated 19.10.1966. It is further stated that the advance increment provided for implementation of computerization does not cover the work of updating pass book and for preparation of accounts. The claimant union has prayed for direction to the management of the bank for payment of allowances to the employees for maintenance of passbook and issuance of statements of accounts and cost of the proceedings.

The averments of the O.P management are summarized as stated here-in-after:-

Before computerization passbook writing/statement of accounts writing had manually been done by the employees of the bank but this important fact has been concealed by the union. At the time of computerization one advance increment has already been given by the bank to the employees who were in service on 01.11.93. It is specifically stated that after computerization pass book writing & statement of accounts writings are not done manually by the employees working in branches, hence question to pay allowance does not arise in the instant matter. In the light of referred facts industrial dispute is not maintainable & is liable to be dismissed at the very outset.

In the rejoinder the claimant union has reiterated the claim for payment of allowance for writing the passbook and issuance of statement of accounts.

The points to be answered in this reference proceeding are as follows:-

1. Whether the employees of the union bank of India have been legally denied the writing allowances for updating the pass book and statement of accounts.
2. Whether the reference proceeding is maintainable in the eye of law.
3. To what relief the workman is legally entitled to?

Point No. 1

It is seen that the claimant has raised the claim for allowance for the bank employee for writing passbook relying on the staff circular 1316 dated 12 June 1972(at page 4/13 to 4/15) and this staff circular 3100 dated 2 Nov1979 (at page 4/16). The reference containing the dispute has been referred to this Tribunal by order dated 03.12.2012. In 1993 after introduction of computerization one increment was allowed to the employees working on computers in the bank all over India the staff circular no. 4033 dated 22 November 1993 contains that special allowance to computer operators shall be Rupees 410 per month of which Rs. 369 shall rank as pay for the purpose of superannuation benefits. it is pertinent to state here that the staff circular no. 4033 dated 21.11.1993 is an outcome of memorandum of settlement dated 29.10.1993 in which Indian bank Association, All India bank employee association, National confederation of bank employees and Indian bank employees federation were parties. In the above stated settlement the rights and liabilities after computerization accruing to the employer's bank and the banking employees have been enumerated in detail. After 1993, some settlements with regard to claim of banking employees have also arrived at. Though in cases of Industrial Disputes there is no strict bar of limitation the claims raised after several decades cannot be held to maintainable. In the scenario, the claim raised in 2012 with regard to allowance for writing pass-book becomes stale claims. To add to this in the reference there is no mention as to who were employees engaged in writing pass book and from which dates the claims have been made in the matter of writing such pass books. In view of aforesaid discussions the claim for allowance stated in reference cannot be allowed in favour of the employees.

It was urged on behalf of the claimant that the employees of the bank were getting the benefits as per Bipartite settlement 1966 para 9.8. It is submitted on behalf of claimant that para 9.8 of the said settlement is still in force as no specific order depriving the employees engaged in writing the passbook and statements of accounts getting the special allowance for writing has been issued by employer bank. It is submitted on behalf of claimants workmen that the work of writing cannot be strictly restricted to writing by hand. It is further submitted that employees of the bank assigned with writing the passbook and the statement of accounts get it done by printers. At this stage it appears pertinent to state here that claimant could not show any such practice of continuance of payment of writing allowance to the bank employees. Even though it is agitated that in Bareilly branch the practice of giving special writing allowance to the employees of Bareilly branch was followed the same has not been proved with concrete evidence. To add to this the claimant petitioner has not proved any material establishing that such writing allowance to the employees engaged in updating the passbook and the statement of accounts is actually allowed to the employees of other nationalised banks in India. At this point it is relevant to state here that after 01.11.1993 after computerization of banking operations one advance increment was allowed to the bank employees.. Though it can be stated that the condition mentioned in B.P.S 1966 is having binding force on the management of the bank and employees it cannot be reasonably concluded that after allowing one increment after computerization of the banking operation as 01.11.1993 onwards the earlier condition of providing writing allowance to the employees will hold good. In other words the proposition that the practice of allowing the writing allowance has not been withheld by any special order issued by the management does not hold good. By implied implication the writing allowance can be implied to be reasonably withheld with release of one advance increment after computerization as on 01.11.1993. Law on this aspect is more or less clean. Writing the pass books and the preparation of statements of accounts in computerized form do not require special training and extra skill and endeavour. When workers are not required to put in extra skill for doing any work they are not entitled to claim extra wages on allowances for that work i.e. writing passbooks and preparation of statement of accounts. The point is answered against the claimant union.

Point No. 2

On 3 counts the management of the bank has vehemently challenged maintainability of reference proceeding. On first count it is submitted on behalf of O.P management that the claimant petitioner represents minority union of the bank employees and as such claimant petitioner cannot maintain such reference proceedings. There is no proposition of law debarring the minority registered trade union from ventilating the grievances of bank employees. In other words the contention on behalf of O.P management that the claimant cannot raise the issue of non-payment of writing allowance before this Tribunal is unsustainable. On the second count it is submitted that individual workman has not approached the Tribunal with his claim but the point as raised by O.P does not appear to be a reasonable ground when registered union can ventilate the grievances of all the workmen. On the third count that the reference proceeding is barred by limitation and lack of specification. This point assume some importance as unless the claims are quantified in terms of money. No effective award cannot be passed. It is also relevant to state here that the O.P raised the point that the

question of writing allowance to the employees engaged writing passbook and updating the account statement is of extra ordinary importance and as such the same should have been referred to National Tribunal. The aforesaid submission appears to be apparently correct however in view of the discussions made in foregoing paragraph with regard to point no. 1 the reference proceedings cannot be answered in favour of the claimant union.

Point no. 3 is answered accordingly.

In the result the reference proceeding fails and it is answered that the employees of the management bank stand dis-entitled to get writing allowance for writing passbook and account statement.

Parties are left to bear their respective costs.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 689.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल एयर कमांडेंट के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचा (13/2014) प्रकाशित करती है।

[सं. एल-12025/01/2024-आईआर(बी-1)-148]

सलोनी, उप निदेशक

New Delhi, the 9th April, 2024

S.O. 689.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 13/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of Central Air Commandant and their workmen.

[No. L-12025/01/2024- IR(B-I)-148]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/RC/13/2014

Present: P.K.Srivastava

H.J.S..(Retd)

Anil Kumar Sondhiya

S/o. Shri Ganga Prasad Sondhiya

R/o 25/244 Vivekanand Nagar,

Bansagar, Distt.Rewa (M.P.)

APPLICANT

Versus

The Chairman,

Central Air Commandant

L.E.B. , Sainik School Society

Allahabad (U.P.)

The Principal,

Sainik School Rewa (M.P.)

NON-APPLICANTS

ORDER /AWARD**(Passed on this 10Th day of January-2024.)**

1. The workmen Anil Kumar Sondhiya has filed this petition under section 2A (2&3) of Industrial Disputes Act 1947 hereinafter referred to by the word 'Act', challenging his termination by management.

2. After registering a case, notices were sent to the parties. They filed respective statements of claim and defense.

3. It is **the case of the workmen** that he was first engaged by the management on January 1, 2000 and was paid salary on monthly basis as casual daily wager till July, 2010. From August 2010, his salary was paid through his Bank account. He was disengaged by management on 01/11/2013 without any notice or compensation. He had worked continuously in the period aforesaid and had completed 240 days or more in every year in engagement. He raised a dispute against his disengagement, which was in violation of section 25F Industrial Disputes Act 1947, before the conciliation officer by way of a complaint dated November 11, 2013. As settlement was reached at between the parties in which the management allowed him to work as daily wager as he was working earlier. It is further, the case of the workmen that he reported for duty before the management in the light of the settlement, but he was not allowed to work in the same capacity as per terms of settlement. After a few days, management offered him to engage as outsourcing employee which he refused. According to the workmen, this action of management was not in terms of the settlement reached at between the parties and he again approached the conciliation officer by way of an other complaint on which no action was taken by the conciliation officer. Hence, this reference the workmen has also pleaded that there was no seniority list of the employees engaged by management was maintained by management and also that the workmen Mukesh Verma, Raju Sanodhia, Rajendra Verma, Manoj Vasad and many others who we are engaged by management. After his engagement as daily wager are still continuing under engagement of management which is also in violation of the Act. Accordingly, the workmen has read that, holding his termination against law, he be held entitled to be reinstated with all back wages and benefits as well seniority.

4. The management has stated in its written statement of defense that, in fact, the workmen was not appointed against any sanctioned vacancy following any recruitment procedure. He was engaged as daily wager casual labour as and when his services were required. He never worked continuously for 240 days in any year, including the year preceding his disengagement. According to management, there was a settlement reached with between the workman and management before the conciliation officer on December 12, 2013 in which he was given opportunity to work as a daily wager. He joined a duty and worked for nine days. Thereafter, he will fully refused to work as a daily wager. Hence, the petition is not maintainable as it is premature. It has also been pleaded that the management of Sainik School is a registered society having certificate of registration under Societies Registration Act 1860. Hence the provisions of ID Act are not applicable in this case and the petition is not maintainable. Further, according to management, there was no illegality committed by them with respect to the workmen rather he himself left his job. Accordingly, management has read that the petition be decided against the workman.

5. In evidence, the workmen has filed his affidavit and has been cross-examined by management. He has further filed documents obtained by him in RTI Act which are admissible in evidence without being formally proved as they are certified copies of public documents.

6. Management has filed an affidavit of its witness Raghubansh Tiwari office superintendent who has been cross-examined by workmen. He has proved documents exhibit M1 to M10. They are letters sent by management to the workmen informing him to join his job in the light of settlement, application of the workmen filed before the Principal of the school and copies of the statement of wages paid by management to the workman.

7. I have heard the argument of learned counsel Sri Uttam Maheshwari for workman and Sri Shailendra Pandey for management. I have also gone through the record. Both the sides have filed written arguments which are part of the record. I have gone through the written arguments also.

8. Learned counsel for workmen has relied on following case laws-

1-Suresh Chandra Mathe Vs Jiwaji University 1994-L.L.N.611 M.P.High Court.

2-Deepali Gundu Surwase Vs Kranti Junior Adhyapak Vidyalaya (2014)2SCC324.

3-Jeetuba Khansang Ji Jadeja Vs Kutch District Panchayat MANU/SC/1227/2022 SC.

9. Management has relied on following case laws-

1-M.P.Electricity Board Vs Hariram 2005L.L.R.1 SC.

2-Range forest officer Vs T.S.Hadimani 2002 LLR 339 SC.

10. After having gone through the record in the light of rival arguments, following issues come up for determination in the case in hand-

1-Whether the action of management in disengaging the workman is in violation of section 25G of the act ?.

2-Whether the petition is not maintainable before this Tribunal ?.

3-Subject to findings on issue number one and two, whether the workman is entitled to any relief ?.

11. Issue number one -

Section 25B, 25F & 25G of the Act required to be referred here, which are being reproduced as follows-

*[25B. Definition of continuous service.- For the purposes of this Chapter,-- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman; (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer-- (a) for a period of one year, if the workman, during a period of twelve calendar months 30 preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and (ii) two hundred and forty days, in any other case; (b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-- (i) ninety-five days, in the case of a workman employed below ground in a mine; and ----- 1. Subs. by Act 48 of 1954, s. 2, for the former Explanation (w.e.f. 1-4-1954). 2. Subs. by Act 36 of 1964, s. 13, for s. 25B (w.e.f. 19-12-1964). 174 (ii) one hundred and twenty days, in any other case. Explanation.--For the purposes of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which-- (i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the industrial establishment; (ii) he has been on leave with full wages, earned in the previous years; (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and (iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.]

25F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period 32 of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice: 176 1* * * * (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2*[for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3*[or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

25G. Procedure for retrenchment.- Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman. 25H.

The fact that the workman worked as daily wager casual labour with the management for the period as claimed by the workman in his statement of claim, is not specifically disputed by management. Case of management is mainly that **firstly**, he did not complete 240 days continuously in any year, including the year preceding his termination and **secondly**, after the settlement between the parties which both the parties have admitted, the workman did not report on duty in spite of various letters sent to him to report. Case of the workmen on this point is that **firstly**, he worked continuously for the period aforesaid that is 240 days and more in every year, including the year preceding the date of his disengagement and **secondly**, he was offered engagement by management as an outsourced daily wager not as a daily wager engage directly by management. That is to say he was not offered work on the same the status and capacity which he was working earlier before the settlement. Hence, it was the management did not honor the settlement.

The workman and the management witness have narrated their version of the case in their affidavits. They have been cross-examined. There is on record, the copy of attendance register for the period November 2012 to October 2013 in which the name of the workman figures at serial number two. Perusal of this register goes to show that during this period, the workman worked for more than 240 days. This document has been filed by the workman obtained by him in RTI Act. This document itself speaks against the case of management that the workman did not worked continuously for 240 days or more and corroborates the case of Workman on his continuous employment for 240 days as defined under section 25B of the Act. **Hence the fact that the workman was under continuous employment of**

management, as a casual daily wager during the period at least during the period of the year preceding the date of his termination is held proved.

The **second ground** challenging the disengagement of the workman is that the workmen mentioned as above in his petition who were engaged by management after him are still continuing. Hence, the principle of first-come last go was not followed. It is worth mentioning here that management has not specifically disputed fact. **Secondly**, the copy of attendance register as mentioned above, shows the names of these workmen along with the applicant workman. **Thirdly**, the workmen has specifically stated this fact in his affidavit and that there is nothing in his cross-examination on this point to discredit him.

This is also worth mentioning that the claim of the workmen that he was not paid any compensation nor was given notice is also not disputed by management. Moreover, the workman has stated this fact also in his affidavit and there is nothing in his cross-examination to discredit him on this point.

Hence, in the light of above discussion, **the disengagement of the workmen is held in violation of section 25F & 25G of the Act. Issue number one is answered accordingly.**

12. Issue number two -

This issue is regarding maintainability of the petition. Maintainability of the petition has been challenged on two points viz; it is premature because it was the workman who did not report on duty and did not honour the settlement and secondly, the management is a registered society.

The workmen has stated that in fact it was the management who did not honour the settlement between the parties reached at in the proceedings before conciliation officer. He has stated that he went to management to work, but he was offered work as an outsourced employee which was against the spirit of settlement. There is no occasion to disbelieve his statement.

In the case of **Deepali Gundu**(supra), referred to from the side of Workman, it has been observed that the very idea of restoring an employee to the position which he held before his dismissal or removal or termination of service implies that he will be put in the same position in which he would have been, but for the action taken by employer.

As regards the second contention of management, in the case of **Suresh Chandra Mathe** (supra) referred to by learned counsel for workman educational institution has been held to be an industry under section 2(J) and the clerical as well inferior staff has been held to be workman as defined under section 2(s) of the Act.

Hence, in the light of above discussion, the contention of management that the petition is not maintainable holds no water and **holding the petition maintainable as discussed above, issue number two is answered accordingly.**

13. Issue number three -

In the light of findings on issue number one and two, the point arises as to what relief the workman is entitled to.

Learned counsel for the workman has referred to judgement of honourable Supreme Court in the case of **Deepali Kundu Surwase** (supra), in which following observations required to be specifically mentioned and are being mentioned as follows-

This extract is taken from *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya*, (2013) 10 SCC 324 : (2014) 2 SCC (L&S) 184 : 2013 SCC OnLine SC 719 at page 356

38. The propositions which can be culled out from the aforementioned judgments are:

38.1. In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

38.2. The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

38.3. Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

38.4. The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the

rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

38.5. The cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimising the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The courts must always keep in view that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and the sufferer is the employee/workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

38.6. In a number of cases, the superior courts have interfered with the award of the primary adjudicatory authority on the premise that finalisation of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer i.e. the employee or workman, who can ill-afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in *Hindustan Tin Works (P) Ltd. v. Employees [Hindustan Tin Works (P) Ltd. v. Employees, (1979) 2 SCC 80 : 1979 SCC (L&S) 53]*.

38.7. The observation made in *J.K. Synthetics Ltd. v. K.P. Agrawal [(2007) 2 SCC 433 : (2007) 1 SCC (L&S) 651]* that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three-Judge Benches [*Hindustan Tin Works (P) Ltd. v. Employees, (1979) 2 SCC 80 : 1979 SCC (L&S) 53*], [*Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court, (1980) 4 SCC 443 : 1981 SCC (L&S) 16*] referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman.

it is submitted from the side of management that since the workman was not appointed against any regular sanction vacancy following any recruitment procedure, reinstatement of the services will not be appropriate. The workman was admittedly a daily wager casual labour, working with management, his disengagement has been held without notices or compensation. Also, it has been held that the principle of first come last go has not been followed in his disengagement. Hence, in the light of principle of law summarised by honourable Supreme Court, mentioned as above. Keeping in view the fact that the principle of first-come last go was not followed, his reinstatement in the same capacity in which he was before his disengagement without back wages will meet the ends of Justice to which he is held entitled. Issue number Three is answered accordingly.

AWARD

Holding the action of management of Sainik School disengaging the Workman on November 1, 2013 against law and unjust, the workman is held entitled to be reinstated, but without back wages, in the same capacity in which he was working before his disengagement on November 1, 2013. He is also held entitled to litigation cost Rs. 10,000/- payable to within 30 days from the date of publication of award, failing which interest at the rate of 6% per annum.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 690.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, मैसर्स. ईशा प्रोटेक्शनल सिक्योरिटी गार्ड प्रा. लिमिटेड, कोलार रोड, भोपाल; निदेशक, एम्स, भोपाल, के प्रबंधन के संबद्ध नियोजकों और श्री सिबिल जॉन और 4 अन्य, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट (संदर्भ संख्या CGIT/LC/R/20/2021) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 08.04.2024 को प्राप्त हुआ था।

[सं. एल-42012/34/2020-आईआर(डीयू)]

दिलीप कुमार, अवसर सचिव

New Delhi, the 9th April, 2024

S.O. 690.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/20/2021) of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, M/s. Isha Protectional & Security Guard Pvt. Ltd., Colar Road, Bhopal; The Director, AIIMS, Bhopal, and Shri Sibil John & 4 Others, Worker**, which was received along with soft copy of the award by the Central Government on 08.04.2024.

[No. L-42012/34/2020- IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/20/2021

Present: P.K.Srivastava

H.J.S..(Retd)

Sibil John & 4 Others

H.No. 251/9 B, Saket Nagar

Bhopal (M.P.)

Workman

Versus

1. Sunil Singh

**Director M/s. Isha Protectional
& Security Guard Pvt. Ltd., Plot No. 18,
1st Floor, Sector-A Sarvdharma,
Colar Road, Bhopal-462042**

2. Director

AIIMS, Bhopal-462020

Management

(JUDGMENT)

(Passed on this 22nd day of March 2024)

As per letter dated 17/02/2021 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-42012/34/2020 IR(DU) dt. 17/02/2021. The dispute under reference relates to:

“क्या श्री सिबिल जॉन एवं 4 अन्य (परिशिष्ट “क” के अनुसार) औद्योगिक विवाद अधिनियम, 1947 के अंतर्गत ‘कर्मकार’ हैं ?

यदि हाँ तो, क्या श्री सिबिल हॉन एवं 4 अन्य (परिशिष्ट “क” के अनुसार) को मेसर्स ईशा प्रोटेक्शनल एवं सिक्योरिटी गार्ड प्राइवेट लिमिटेड, ठेकेदार द्वारा भोपाल में ठेका कार्य में कार्यरत कामगारों को दिनांक 23.08.2020 से काम से निकाला जाना न्यायोचित है ? यदि नहीं, तो उक्त कामगार किन लाभों के अधिकारी हैं और इस सम्बन्ध में कोई अन्य दिशानिर्देश क्या हैं ?”

After registering a case on the basis of the reference, notices were sent to the parties and were served. The workman side appeared and filed Vakalatnama of their Counsel but never appeared thereafter and did not file any Statement of Claim.

The management of M/s. Isha Protectional & Security Guard Ltd. also appeared through their authorized representative but never appeared thereafter and did not file any Written Statement of Defense.

The management of AIIMS Bhopal appeared through their learned Counsel and filed their Written Statement of Defense, wherein they stated that the five workmen Sibil John, Janite Martin James, Nishad A.J., Mariyamma

Varghese and Sharanya Malviya are not workmen of AIIMS, there is no employer-employee relationship between AIIMS and these applicants, they were engaged Nursing Officer & Nurse by the man power providing agency M/s. Isha Protectional Security Guard Pvt. Ltd. and were supplied on outsourcing basis to AIIMS vide engagement order dated 10.08.2018. The outsourcing was done away after joining of regularly appointed candidates and hence services of these workmen was terminated by the outsourcing agency itself. It is further stated that there were many other persons engaged by the outsourcing agency and supplied to the AIIMS whose services were dispensed with in similar manner when the regularly appointed candidates joined. Some of them filed petition before Central Administrative Tribunal Jabalpur challenging their termination and seeking regularization which was dismissed. Writ Petition against order of the Central Administrative Tribunal was also dismissed by Hon'ble High Court. Writ Appeal also dismissed and SLP was also dismissed. Also it has been pleaded that U/S. 14(2) of The Central Administrative Tribunal Act, Central Government has issued a notification on 22.06.2017 under which the Central Administrative Tribunal has jurisdiction to hear the service matter of employees of AIIMS hence this reference is not cognizable by this Tribunal. The management has further filed photocopy documents Annexure M/1 to M/12 which are notification dated 22.06.2017, engagement orders dated 10.08.2018 issued by the outsourcing agency to the five workmen stating the terms and conditions of their appointment, disengagement notices issued by the outsourcing authority to these five workmen as one month prior notice to their disengagement.

No evidence has been adduced by any of the parties in form of Affidavit or any document proved.

None appeared for the workmen side and the outsourcing agency at the time of argument hence argument of learned Counsel for AIIMS Shri Gopi Chourasiya were heard and record has been perused by me.

Reference itself is the issue for determination in the case in hand.

As regards the objection regarding jurisdiction of this Tribunal to hear this reference, Section 14 of the Administrative Tribunal Act 1985 is being reproduced as follows.

14. Jurisdiction, powers and authority of the Central Administrative Tribunal.—(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts except the Supreme Court in relation to—

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning—

(i) a member of any All-India Service; or

(ii) a person not being a member of an All-India Service or a person referred to in clause (c) appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian not being a member of an All-India Service or a person referred to in clause (c) appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation or society owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation or society or other body, at the disposal of the Central Government for such appointment.

Explanation.—For the removal of doubts, it is hereby declared that references to “Union” in this sub-section shall be construed as including references also to a Union territory.

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations or societies owned or controlled by Government, not being a local or other authority or corporation or society controlled or owned by a State Government: Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations or societies.

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or

other authority or corporation or society, all the jurisdiction, powers and authority exercisable immediately before that date by all courts except the Supreme Court in relation to—

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation or society; and

(b) all service matters concerning a person other than a person referred to in clause (a) or clause (b) of sub-section (1) appointed to any service or post in connection with the affairs of such local or other authority or corporation or society and pertaining to the service of such person in connection with such affairs.

Similarly, section 28 of this Act requires to be reproduced and is being reproduced as follows –

On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any Service or post or service matters concerning members of any Service or persons appointed to any Service or post, no Court except—

(a) the Supreme Court; or

(b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 (14 of 1947) or any other corresponding law for the time being in force, shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters.

Hence, from the perusal of this provision this objection fails and it is held that this Tribunal has jurisdiction to hear this reference.

The initial burden to prove its case is on the workmen. In absence of any pleading and proof, they are held to have not proved their case.

Some facts which come out from the pleading of AIIMS and photocopy documents filed are that these workmen were appointed by the outsourcing agency as it is clear their engagement order dated 10.08.2018. This engagement notices issued by the outsourcing agency to these workmen one month prior to their disengagement (photocopies on record) also show that Section 25(F)(a) of Industrial Disputes Act 1947. This provision is also being reproduced as follows-

25F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.

There is nothing in the pleading of AIIMS that these workmen were not paid compensation equivalent to 15 days average pay for every completed year of continuous service by their employer the outsourcing agency, at the time of their retrenchment, which is 28.08.2020 according to disengagement notices. It is the case of AIIMS itself that they were engaged on 10.08.2018 as photocopies of their engagement orders also show alongwith pleadings of AIIMS. Hence, their termination is held in violation of Section 25(F)(b) of Industrial Disputes Act 1947.

On the basis of above discussion and findings, these five workmen **Sibil John, Janite Martin James, Nishad A.J., Mariyamma Varghese and Sharanya Malviya** are held entitled to compensation equivalent to 15 days average pay for every completed year of continuous service by their employer the outsourcing agency, which is computed Rs. 22,000/- per applicant in the light of the fact that according to their engagement orders, they were engaged on consolidated salary of 40,965/- per month. They are also held entitled to interest @ of 10% p.a. from the date of their disengagement till payment.

Reference is answered accordingly. No order as to cost.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 691.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रभारी अधिकारी, प्रधान महालेखाकार, लेखापरीक्षा-I, मध्य प्रदेश, ग्वालियर, के प्रबंधन के संबद्ध नियोजकों और श्री विजय सिंह, श्री धीरेन्द्र सिंह, श्री हरिशंकर सविता, श्री महेश राठौड़, श्री कमल किशोर राठौड़, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट (संदर्भ संख्या CGIT/LC/R/38/2013) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 08.04.2024 को प्राप्त हुआ था।

[सं. एल-42012/162/2012-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 9th April, 2024

S.O. 691.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/38/2013) of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Officer-in-charge, Principal Accountant General, Audit-I, Madhya Pradesh, Gwalior, and Shri Vijay Singh, Shri Dharendra Singh, Shri Harishankar Savita, Shri Mahesh Rathore, Shri Kamal Kishore Rathore, Worker, Worker**, which was received along with soft copy of the award by the Central Government on 08.04.2024.

[No. L-42012/162/2012- IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPURNO. CGIT/LC/R/38/2013Present: P.K.SrivastavaH.J.S..(Retd)

Shri Vijay Singh,

S/o Shri Ram Sarup,

R/o Village Bada Gaon, Post Morar,

Gwalior

Shri Dharendra Singh,

S/o Phool Singh,

R/o Village Mohanpur, Post Morar,

Gwalior

Shri Harishankar Savita,

S/o Shri Narayan Savita,

R/o Village Mama ka Bazar, Near Jain Mandir,

Gwalior

Shri Mahesh Rathore,

S/o Shri Ram Prakash Rathore,

**R/o Opp. Mental Hospital, Vijay Nagar,
Sector No.2, Behind Jain Quarters,
Gwalior
Shri Kamal Kishore Rathore,
S/o Late Shri Ramcharan Rathore,
R/o Harider Ganj, Near Shani Dev Mandir,
Lashkar, Gwalior**

Workman

Versus

**The Officer-in-charge
Principal Accountant General,
Audit-I, Madhya Pradesh,
Gwalior**

Management

AWARD

(Passed on this the 06th day of March 2024)

As per letter dated 25/02/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-42012/162/2012 (IR(DU)) dt. 25/02/2013 The dispute under reference relates to:

“Whether the provisions of Industrial Disputers Act are applicable to the Principal Accountant General Office? Whether the Applicant’s services were illegally terminated. If yes, then what relief the applications are entitled for?”

After registering case on the basis of reference received, notices were issued to the parties and were duly served on them. They appeared and have filed their respective statements of claim and defence.

The case of the applicant Workmen, as taken in their statement of claim, is mainly that they were appointed as group D workers by management. The management is an industry as defined in the section 2(S) of The Industrial Disputes Act, hereinafter referred to by the word act. Hence provisions of The Act apply to them and the CCS (CCA) Rules, hereinafter referred to by the word Rules, cannot override The Act. The Central Administrative Tribunal. Delhi Bench has held that it has no jurisdiction in connection with the dispute of group D employees. Hence, this Tribunal has jurisdiction to adjudicate the reference. According to the applicant Workman, they are ‘workman’ as defined under section 2 (j) of The Act. They were first appointed through local employment exchange as group D employees in response to the requisition made by the respondent management to employment exchange at Gwalior for appointment against group D posts. Their names were sponsored by employment exchange and they were appointed. From the dates as mentioned in the paragraph 11 of the statement of claim , which is from April 24th , 1994 to April 24th , 1996 and worked continuously for more than 240 days in each calendar year. Till their services were terminated by the management without notice or compensation without assigning any reason and on the ground that they claimed temporary status and regular employment, which amounts to retrenchment and is against The Act. The management created artificial breaks in their services, just in order to deprive them from the benefits admissible to them under law.

It is further, the case of the workmen that the workman number one and two, in the statement of claim filed a petition before the Central Administrative Tribunal at Jabalpur, which was OA No 505/2004 and was decided by the Administrative Tribunal vide order dated July 28th , 2005 with the following directions-

1-in event of respondents have availability of work which has been earlier performed by the They shall be considered for reinstatement in preference to juniors to outsiders.

2-respondents shall consider regularising these workmen against group D posts subject to their eligibility as per Rules and availability of vacancies.

Further it is stated that few Workmen filed and other petition OANo 01/2005, before the same Bench, which was disposed vide order dated October 18th 2005 and same directions, as mentioned above were issued to the respondent management.

The respondent management preferred two Writ Petitions WP No (5) 1506 /2006 and WP No (3) 1541/2006, which were disposed by Hon'ble High Court of MP wide order dated March 12th 2007 with the following observations -

“It is nowhere shown on record that being aggrieved of the alleged illegal termination/discontinuance, the respondent Workman had raised any green once or had approached and appropriate forum for redress of the advance of the alleged illegal discontinuance. Be that it may, the Tribunal patently erred in creating arrived in favour of the respondents/Workman. More so, in the light of the fact that discontinuance of the respondents/Workman was due to non-availability of work.

..... At this stage, the counsel for respondent's/Workman urges that they being terminated/discontinued after having surrendered number of years in service are left with no remedy and the order passed in this case may come in their way to seek remedy before proper forum under industrial disputes act 1947. While thoughtful consideration to the contention of the learned counsel for the respondents, we may make it clear that the order passed two-day will not come in way of the respondents seeking remedy in accordance with law”

Accordingly, the workmen have prayed their reinstatement in services with all consequential benefits and also the relief that they be held entitled to regular employment and wages from the date of their termination till reinstatement.

Management has contested the claim in their written statement of defence and had put up a case that the Comptroller and Auditor General of India ie is a constitutional authority created under article 148 of the Constitution and derives his powers from articles 148 to 151 of Constitution of India itself also that provision of CAG (Duties, Powers and Conditions of Service) Act 1971 and the Principal Accountant General is one of the functionaries in Indian Audit and Accounts Department under CAG of India for performing duties in relation to audit of Government accounts on behalf of CAG, thus exercise power and functions of the Government. The appointments in the offices under control of CAG are governed by the statutory recruitment Rules made by President of India under article 148 (5) of the Constitution of India in consultation with CAG of India and also by CCS (Conduct) Rules & CCS (CCA & Pension) Rules. Hence they are not industry as defined under section 2 (j) of The Act and the reference is not entertainable by this Tribunal. It is further, the case of management that these workmen were daily wagers and were employed on casual basis. Their services were terminated after the work for which they were engaged was finished. According to management, since they were not appointed against a definite vacancies undergoing recruitment process, they cannot claim any regularization of their services. Accordingly, management has prayed that the reference be answered against the Workmen. The workmen have filed their Rejoinder, wherein they have mainly reiterated their case.

In evidence, the workmen have filed photocopy of order of Central administrative Tribunal and judgement of Hon'ble High Court of MP, both admitted by management. Hence, marked Ex W1 & W2, respectively. Workmen Vijai Singh, Kamal Kishore, Mahesh Rathore, Harishankar Savita and Dharendra Singh have filed their affidavits as they are examination in Chief. They have been cross-examined by management.

Management has not filed any documentary evidence, nor has filed an affidavit of any of its witnesses. I have heard argument of Mr Sharad Punj, learned counsel appearing from the side of the applicant Workmen. None was present from the side of management for arguments. No written arguments has been filed by any of the parties. I have gone through the record as well.

From perusal of record in the light of argument, following issues arise for determination in the case in hand-

- 1- Whether the management ie the Principal Accountant General is 'industry' as defined under section 2(j) of The Act ?**
- 2- If the finding on issue number one is in favour of the workmen, where their services illegally terminated ?**
- 3- Subject to findings on issue number one and two, are these workmen are entitled to any relief ?**

Issue number one -

Before entering into any discussion on this issue, relevant provisions of the act required to be mentioned here and are being reproduced as follows-

1[(j) “industry” means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;

2[(s) “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes

any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding 3[ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]

4[2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.—

5(1) Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

6(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

Learned counsel for the workmen has referred to a seven judge bench decision of the Supreme Court in the case of **Bangalore Water Supply & Sewerage Board Vs Rajappa reported in (1978)2 SCC 213** in support of his submission that the management is an industry as defined in the act. The relevant portion of the said judgement is being reproduced as follows-

This extract is taken from Bangalore Water Supply & Sewerage Board v. A. Rajappa, (1978) 2 SCC 213 : 1978 SCC (L&S) 215 at page 282

“140. ‘Industry’, as defined in Section 2(j) and explained in *Banerji*, has a wide import.

“(a) Where (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making, on a large scale *prasad* or food), prima facie, there is an ‘industry’ in that enterprise.

(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

(d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.”

141. Although Section 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to overreach itself.

“(a) ‘Undertaking’ must suffer a contextual and associational shrinkage as explained in *Banerji* and in this judgment; so also, service, calling and the like. This yields the inference that all organized activity possessing the triple elements in I, although not trade or business, may still be ‘industry’ provided *the nature of the activity*, viz. the employer-employee basis, bears resemblance to what we find in trade or business. This takes into the fold of ‘industry’ undertakings, callings and services, adventures ‘analogous to the *carrying* on the trade or business’. All features, other than the methodology of carrying on the activity viz. in organizing the co-operation between employer and employee, may be dissimilar. It does not matter, if on the employment terms there is analogy.”

142. Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or outer sense of motivation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workmen, the range off this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.

“(a) The consequences are (i) professions, (ii) clubs, (iii) educational institutions, (iv) co-operatives, (v) research institutes, (vi) charitable projects, and (vii) other kindred adventures, if they fulfil the triple tests listed in I, cannot be exempted from the scope of Section 2(j).

(b) A restricted category of professions, clubs, co-operatives and even *gurukulas* and little research labs, may qualify for exemption if, in simple ventures, substantially and, going by the dominant nature criterion, substantively, no employees are entertained but in minimal matters, marginal employees are hired without destroying the non-employee character of the unit.

(c) If, in a pious or altruistic mission many employ themselves, free or for small honoraria or like return, mainly drawn by sharing in the purpose or cause, such as lawyers volunteering to run a free legal services clinic or doctors serving in their spare hours in a free medical centre or *ashramites* working at the bidding of the holiness, divinity or like central personality, and the services are supplied free or at nominal cost and those who serve are not engaged for remuneration or on the basis of master and servant relationship, then, the institution is not an industry even if stray servants, manual or technical, are hired. Such eleemosynary or like undertakings alone are exempt — not other generosity, compassion, developmental passion or project.”

143. *The dominant nature test:*

“(a) Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom are not ‘workmen’ as in the *University of Delhi case* [*University of Delhi v. Ramlfath*, (1964) 2 SCR 703 : AIR 1963 SC 1873 : (1963) 2 Lab LJ 335] or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the *Corporation of Nagpur* will be the true test. The whole undertaking will be ‘industry’ although those who are not ‘workmen’ by definition may not benefit by the status.

(b) Notwithstanding the previous clauses, sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by government or statutory bodies.

(c) Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within Section 2(j).

(d) Constitutional and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby.”

150. Each of us is likely to have a subjective notion about “industry”. For objectivity, we have to look first to the words used in the statutory provision defining industry in an attempt to find the meaning. If that meaning is clear, we need proceed no further. But, the trouble here is that the words found there do not yield a meaning so readily. They refer to what employers or workers may do as parts of their ordinary avocation or business in life. When we turn to the meaning given of the term “worker” in Section 2(s) of the Act, we are once more driven back to find it in the bosom of “industry”, for the term “worker” is defined as one:

“employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute”.

The definition, however, excludes specifically those who are subject to the Army Act, 1950 or the Air Force Act, 1950, or the Navy Discipline Act, 1934, as well as those who are employed in the Police Service or officers and other employees of a prison, or employed in mainly managerial or administrative capacities or who, being employed in supervisory capacity, draw wages exceeding Rs 500 per mensem.

151. Thus, in order to draw the “circle of industry”, to use the expression of my learned Brother Iyer, we do not find even the term “workman” illuminating. The definition only enables us to see that certain classes of persons employed in the service of the State are excluded from the purview of industrial dispute which the Act seeks to provide for in the interests of industrial peace and harmony between the employers and employees so that the welfare of the nation is secured. The result is that we have then to turn to the preamble to find the object of the Act itself, to the legislative history of the Act, and to the socio-economic ethos and aspirations and needs of the times in which the Act was passed.

163. I would also like to make a few observations about the so-called “sovereign” functions which have been placed outside the field of industry. I do not feel happy about the use of the term “sovereign” here. I think that the term ‘sovereign’ should be reserved, technically and more correctly, for the sphere of ultimate decisions. Sovereignty operates on a sovereign plane of its own as I suggested in *Keshavananda Bharati case* [(1973) 4 SCC 225] supported by a quotation from Ernest Barker's *Social and Political Theory*. Again, the term “Regal”, from which the term “sovereign” functions appears to be derived, seems to be a misfit in a Republic where the citizen shares the political

sovereignty in which he has even a legal share, however small, inasmuch as he exercises the right to vote. What is meant by the use of the term “sovereign”, in relation to the activities of the State, is more accurately brought out by using the term “governmental” functions although there are difficulties here also inasmuch as the Government has entered largely new fields of industry. Therefore, only those services which are governed by separate rules and constitutional provisions, such as Articles 310 and 311 should, strictly speaking, be excluded from the sphere of industry by necessary implication.

173. Section 2(j) of the Industrial Disputes Act, 1947, defines “industry” to mean —

“any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen”.

These are words of wide import, as wide as the legislature could have possibly made them. The first question which has engaged the attention of every court. which is called upon to consider whether a particular activity is “industry” is whether, the definition should be permitted to have its full sway embracing within its wide sweep every activity which squarely falls within its terms or whether, some limitation ought not to be read into the definition so as to restrict its scope as reasonably as one may, without doing violence to the supposed intention of the legislature. An attractive argument based on a well-known principle of statutory interpretation is often advanced in support of the latter view. That principle is known as “*noscitur a sociis*” by which is meant that associated words take their meaning from one another. That is to say, when two or more words which are susceptible of analogous meaning are coupled together, they take their colour from each other so that the width of the more general words may square with that of words of lesser generality. An argument based on this principle was rejected by Gajendragadkar, J., while speaking on behalf of the Court, in *State of Bombay v. Hospital Mazdoor Sabha* [AIR 1960 SC 610 : (1960) 2 SCR 866 : (1960) 1 LLJ 251] . A group of five hospitals called the J.J. Hospital, Bombay, which is run and managed by the State Government in order to provide medical relief and to promote the health of the people was held in that case to be an industry.

174. The Court expressed its opinion in a characteristically clear tone by saying that if the object and scope of the Industrial Disputes Act are considered, there would be no difficulty in holding that the relevant words of wide import have been deliberately used by the legislature in defining “industry” in Section 1(j) of the Act. The object of the Act, the Court said, was to make provision for the investigation and settlement of industrial disputes, and the extent and scope of its provisions would be realised if one were to bear in mind the definition of “industrial dispute” given by Section 2(k), of “wages” by Section 2(rr), “workman” by Section 2(s), and of “employer” by Section 2(g). The Court also thought that in deciding whether the State was running an industry, the definition of “public utility service” prescribed by Section 2(n) was very significant and one had merely to glance at the six categories of public utility services mentioned therein to realise that in running the hospitals the State was running an industry. “It is the character of the activity which decides the question as to whether the activity in question attracts the provision of Section 2(j); who conducts the activity”, said the Court, “and whether it is conducted for profit or not do not make a material difference”.

175. But having thus expressed its opinion in a language which left no doubt as to its meaning, the Court went on to observe that though Section 2(j) used words of a very wide denotation, “it is clear” that a line would have to be drawn in a fair and just manner so as to exclude some callings, services or undertakings from the scope of the definition. This was considered necessary because if all the words used in the definition were given their widest meaning, all services and all callings would come within the purview of the definition including services rendered by a person in a purely personal or domestic capacity or in a casual manner. The Court then undertook for examination what it euphemistically called “a somewhat difficult” problem to decide and it proceeded to draw a line in order to ascertain what limitations could and should be reasonably implied in interpreting the wide words used in Section 2(j). I consider, with great respect, that the problem is far too policy-oriented to be satisfactorily settled by judicial decisions. Parliament must step in and legislate in a manner which will leave no doubt as to its intention. That alone can afford a satisfactory solution to the question which has agitated and perplexed the judiciary at all levels.

176. In *Hospital Mazdoor Sabha* the Court rejected, on concession, two possible limitations on the meaning of “industry” as defined in Section (2) of the Act: firstly, that no activity can be an industry unless accompanied by a profit motive and secondly, that investment of capital is indispensable for treating an activity as an industry. The Court also rejected, on examination, the limitation that a quid pro quo for services rendered is necessary for bringing an activity within the terms of Section 2(j). If the absence of profit motive was immaterial, the activity, according to the Court, could not be excluded from Section 2(j) merely because the person responsible for the conduct of the activity accepted no return and was actuated by philanthropic or charitable motives. The Court ultimately drew a line at the point where the regal or sovereign activity of the Government is undertaken and held that such activities of the Government as have been pithily described by Lord Watson as “the primary and inalienable functions of a constitutional Government”, could be stated negatively as falling outside the scope of Section 2(j). The judgment concludes with the summing-up that, as a working principle, an activity systematically or habitually undertaken for the production or distribution of goods or for the rendering of material services to the community at large or a part of such community with the help of employees is an undertaking within the meaning of Section 2(j); that such an

activity generally involves the co-operation of the employer and the employees; that the activity must not be casual nor must it be for oneself nor for pleasure, but it must be organised or arranged in a manner in which trade or business is generally organised; and thus, the manner in which an activity is organised or arranged and the form and the effectiveness of the co-operation between the employer and employee for producing a desired result and for rendering of material services to the community become distinctive of activities falling within the terms of Section 2(j). Seeds of many a later judgment were sown by these limitations which were carved out by the Court in order to reduce the width of a definition which was earlier described as having been deliberately couched by the legislature in words of the widest amplitude.

177. These exceptions which the Court engrafted upon the definition of “industry” in Section 2(j) in order to give to the definition the merit of reasonableness, became in course of time as many categories of activities exempted from the operation of the definition clause. To an extent, it seems to me clear that though the decision in *Hospital Mazdoor Sabha* that a Government-run hospital was an industry proceeded upon the rejection of the test of “*noscitur a sociis*”, it is this very principle which constitutes the rationale of the exceptions carved out by the Court. It was said that the principle of “*noscitur a sociis*” is applicable in cases of doubt and since the language of the definition admitted of no doubt, the principle had no application. But if the language was clear, the definition had to be given the meaning which the words convey and there can be no scope for seeking exceptions. The contradiction, with great respect, is that the Court rejected the test of “association of words” while deciding whether the Government-run hospital is an industry but accepted that very test while indicating which categories of activities would fall outside the definition. The question then is: If there is no doubt either as to the meaning of the words used by the legislature in Section 2(j) or on the question that these are words of amplitude, what justification can one seek for diluting the concept of industry as envisaged by the legislature?

179. One of the exceptions carved out by the Court is in favour of activities undertaken by the Government in the exercise of its inalienable functions under the Constitution, call it regal, sovereign or by any other name. I see no justification for excepting these categories of public utility activities from the definition of “industry”. If it be true that one must have regard to the nature of the activity and not to who engages in it, it seems to me beside the point to enquire whether the activity is undertaken by the State, and further, if so, whether it is undertaken in fulfilment of the State's constitutional obligations or in discharge of its constitutional functions. In fact, to concede the benefit of an exception to the State's activities which are in the nature of sovereign functions is really to have regard not so much to the nature of the activity as to the consideration who engages in that activity; for, sovereign functions can only be discharged by the State and not by a private person. If the State's inalienable functions are excepted from the sweep of the definition contained in Section 2(j), one shall have unwittingly rejected the fundamental test that it is the nature of the activity which ought to determine whether the activity is an industry. Indeed, in this respect, it should make no difference whether, on the one hand, an activity is undertaken by a corporate body in the discharge of its statutory functions or, on the other, by the State itself in the exercise of its inalienable functions. If the water supply and sewerage schemes or fire fighting establishments run by a Municipality can be industries, so ought to be the manufacture of coins and currency, arms and ammunition and the winning of oil and uranium. The fact that these latter kinds of activities are, or can only be, undertaken by the State does not furnish any answer to the question whether these activities are industries. When undertaken by a private individual they are industries. Therefore, when undertaken by the State, they are industries. The nature of the activity is the determining factor and that does not change according to who undertakes it. Items 8, 11, 12, 17 and 18 of the First Schedule read with Section 2(n)(vi) of the Industrial Disputes Act render support to this view. These provisions which were described in *Hospital Mazdoor Sabha* as “very significant” at least show that, conceivably, a defence establishment, a mint or a security press can be an industry even though these activities are, ought to be and can only be undertaken by the State in the discharge of its constitutional obligations or functions. The State does not trade when it prints a currency note or strikes a coin. And yet, considering the nature of the activity, it is engaged in an industry when it does so.”

On the other hand, management has taken the plea that there are not industry as defined in the act because they are engaged in sovereign activities of the government entrusted to them by Constitution of India. Some decisions of Central Administrative Tribunal have been referred to in the column of preliminary objection of the written statement of defence in support of this plea, but these decisions are not binding on this Tribunal. Some other decisions are also referred by management in their written statement, but they have not cared to file copies of any of these judgements. However, these judgements are not direct on this point that the office of management ie the office of the CAG or PAG is not industry as defined in the act.

It is not disputed that the main activity undertaken by the management in the case in hand is audit of Government offices. The purpose of this audit is to ensure whether the Government fund has been utilised as per rules or not and to report to the Government in this respect. Hence, it is established that the management in the case in hand is not into rendering any service to any third party or any activity relating to business or industry rather it is an act which can be done only by the Government and not by any other. Hence, the acts done by the management are the primary and inalienable functions of a constitutional Government, they are covered is squarely in the sovereign activity of Government. Since, the management has been found to be engaged in conducting audits of Government departments

with the purpose whether the Government funds are being properly used by them as per rules and sending reports to Government, it cannot be held industry under section 2(J) of the Act.

On the basis of the above discussion, the office of management is held not to be an 'industry' under section 2 (j) of The Industrial Disputes Act 1947 and issue number one is answered accordingly.

Issue number two & three-

In the light of findings recorded on issue number one, these issues are also answered against the Workmen.

Consequently, following award is passed

AWARD

The office of management i.e. Principal Accountant General is held not to be an 'industry' under section 2 (j) of The Industrial Disputes Act 1947, and this reference is held not cognizable by this Tribunal.

The applicant workmen are held entitled to no relief.

No order as to cost.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 692.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स विन्ध्य एनवायरो ग्रुप, रीवा (म.प्र.), के प्रबंधन के संबद्ध नियोजकों और श्री रीतेश पुरोहित, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, जबलपुर पंचाट (संदर्भ संख्या CGIT/LC/R/43/ 2022.) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 08.04.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-62-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 9th April, 2024

S.O. 692.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/43/2022.) of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Vindhya Enviro Group, Rewa (M.P.), and Shri Ritesh Purohit, Worker**, which was received along with soft copy of the award by the Central Government on 08.04.2024.

[No. L-42025/07/2024-62- IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/43/2022

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Ritesh Purohit S/o. Shri Maganlal Purohit,

S-149, Nehru Nagar,

Dist. Bhopal (M.P.) - 461223

Workman

Versus

M/s Vindhya Enviro Group,
83, Vindhya House, Gram : Nakata,
Post : Govindgarh,
Dist. Rewa (M.P.) - 486550

Management

AWARD

(Passed on this the 15th day of March-2024.)

As per letter dated 01/09/2022 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number J-1(1-11)/2022-IR dt. 01/09/2022. The dispute under reference related to :-

“क्या श्री रितेश पुरोहित, कर्मकार को अनावेदक संस्थान मैसर्स विध्यां एनवायरो ग्रुप द्वारा आवेदक के काम से निकाला जाना न्यायोचित है? यदि नहीं, तो उक्त कर्मकार को कब से और किन लोगों के साथ नौकरी पर पुनः बहाल किया जाना चाहिए?”

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 अप्रैल, 2024

का.आ. 693.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स विंध्या एनवायरो ग्रुप, रीवा (म.प्र.), के प्रबंधन के संबद्ध नियोजकों और श्री भूपेन्द्र झारिया, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट (संदर्भ संख्या CGIT/LC/R/45/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 08.04.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-63-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 9th April, 2024

S.O. 693.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/45/2022) of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Vindhya Enviro Group, Rewa (M.P.), and Shri Bhupendra Jhariya, Worker**, which was received along with soft copy of the award by the Central Government on 08.04.2024.

[No. L-42025/07/2024-63- IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPURNO. CGIT/LC/R/45/2022Present: P.K.SrivastavaH.J.S..(Retd)

Shri Bhupendra Jhariya S/o. Shri Radheshyam Jhariya,
C-114, BHEL Sangam Colony, Bhagsewania,
Dist. Bhopal (M.P.) - 462043

Workman

Versus

M/s Vindhya Enviro Group,
83, Vindhya House, Gram : Nakata,
Post : Govindgarh,
Dist. Rewa (M.P.) - 486550

Management

AWARD

(Passed on this the 15Th day of March-2024.)

As per letter dated 01/09/2022 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number J-1(1-13)/2022-IR dt. 01/09/2022. The dispute under reference related to :-

“क्या श्री भुपेन्द्र झारिया, कर्मकार को अनावेदक संस्थान मैसर्स विध्यां एनवायरो ग्रुप द्वारा आवेदक के काम से निकाला जाना न्यायोचित है? यदि नहीं, तो उक्त कर्मकार को कब से और किन लोगों के साथ नौकरी पर पुनः बहाल किया जाना चाहिए?”

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 अप्रैल, 2024

का.आ. 694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (43/2013) प्रकाशित करती है।

[सं. एल-12011/83/2012-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 10th April, 2024

S.O. 694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 43/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen.

[No. L-12011/83/2012- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, CHENNAI

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 43/2013

BETWEEN

The General Secretary

Indian Bank Employees Union

6, Moore Street

Mannady Corner

Chennai-600001

Vs

General Manager

Indian Bank, Zonal Office

10, Kamaraj Salai

Puducherry-605010

AWARD

Heard the Learned Counsel for the Parties and gone through the record.

By letter / order dt. 11.03.2013, appropriate government, referred the following dispute to this Tribunal for adjudication:

“Whether the demand of the Indian Bank Employees Union in modifying the punishment of “Dismissed” to “Compulsory Retirement” from service to Sri V. Kumar, Clerk/Shroff of Mazhavanthangal Branch, Indian Bank is justified? What relief the workman concerned is entitled?”

Accordingly, ID case No. 43/2013 was registered before this Tribunal.

Thereafter, WP No. 28953/2016 was filed before the Hon’ble High Court of Madras (V. Kumar Vs. the General Manager, Indian Bank and Another) allowed by Order dt. 07.07.2021. Operative portion is as below:

“9. Accordingly, this Writ Petition is allowed and the award dated 03.01.2014 of the 2nd Respondent in ID No. 43 of 2013 is hereby set aside and the delay is condoned. The Labour Court shall call for the records from the Conciliation Officer for the purpose of marking it as Court Exhibits, proceed with the matter without adjourning it beyond seven working days at any point of time and thereafter, render a finding on merits and in accordance with law, as expeditiously as possible, but not later than six months from the date of receipt of a copy of this order. The parties are directed to co-operate with the Tribunal for speedy disposal of the matter”.

In response to reference dt. 11.03.2013 quoted hereinabove Sri V. Kumar on 30.06.2022 filed a Claim Statement titled as:

“CLAIM STATEMENT FILED BY THE PETITIONER UNDER SECTION 2A OF THE INDUSTRIAL TRIBUNAL ACT 1947

praying therein the following relief:

“Therefore prays that this Hon’ble Tribunal to set aside the Termination orders of Assistant General Manager/ Disciplinary Authority in charge sheet COP:CS:41134:279:2009-10 dated 03.2.2009 issued to the petitioner,

Sr.No. 41134, Clerk/Shroff (u/s), Mazhavanthangal for his acts of commission and omission during his tenure as Clerk/Shroff at Mazhavanthangal in Reference No. ZOP:CS::41134:279:17:2010-11 dated 29.12.2010 by respondent management as illegal and void and direct the Respondent/Management to reinstate the Petitioner to duty with all benefits including back wages and continuity of service and other benefits and thus render justice”.

On behalf of the Respondent, an objection was raised that the relief as claimed by the Workman is beyond the scope of reference so the Claim Petition filed by the Petitioner is liable to be dismissed. Accordingly he requested that the said objection may be decided first.

Heard Counsel for workman on the basis of pleading made in the Claim Statement, submitted that as impugned action on the part of respondent terminating the services of Workman/V. Kumar which was subsequently modified to Compulsory Retirement was void-abinitio, contrary to law so the same is liable to be set aside and workman may kindly be granted relief as prayed.

I have heard the Learned Counsel for the Parties on the point in issue

Before deciding the controversy involved in the present case, it will be appropriate to go through aims and objects of Industrial Dispute Act, 1947 in brief which are that Industrial Disputes Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946. After the Select Committee's report on 03.02.1947, with some amendments, it was passed in March 1947 and became the law from 1st April 1947 repealing the Trade Disputes Act 1929

While retaining most of the provisions of the earlier law, this Act introduced two new institutions for the prevention and settlement of industrial disputes; works committees consisting of representation of employers and workers; and machinery for industrial adjudication.

A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may be specified, up to a maximum of one year. This Act seeks to give a new orientation to the entire conciliation machinery.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings of settlements reached in the course of conciliation proceedings and of award of industrial tribunals declared binding by the appropriate government.

Rules, orders or notifications requiring the larger industrial establishments to set up works committees were issued by the Government of India and most of the Stat Governments.

Objective: General

The objectives of industrial relations and industrial disputes legislation may be outlined as under:

(i) **Industrial Peace:** For prosperity of industry, it is necessary that there be a continuous and growing producing which is only possible if (a) there are no interruptions and stoppages in production i.e. absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.

(ii) **Economic Justice:** All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of about with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc. (*Hariprasad Vs. A.D. Divelkar, AIR 1957 SC 121*)

Social and economic justice which is the bedrock of our Constitution and economic organization also requires that any industrial relations or disputes legislation, to be effective remedial statute, must embrace not only law for regulation of labour relations with capital, process for channelizing collective bargaining methods for negotiation, mediation, conciliation and settlements of industrial conflict, but also a system for giving fair play and justice to labour and removal of economic injustice.

The preamble of the Act states that its main object is to make provision for investigation and settlement of industrial disputes. Viewed in the above background, the Industrial Disputes Act 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. (*Banaras Ice Factory Ltd. Vs. Its Workmen, AIR 1957 SC 167*).

The purpose of the Act is to provide machinery for a just and equitable settlement by adjudication, (*G. Claridge and Company Ltd. Vs. Industrial Tribunal, Bombay, AIR 951 Bombay 100*) and amelioration of the conditions of workmen in industry.

Individual and collective industrial disputes: Individual as well as collective disputes may ripen into industrial dispute. The true nature of an individual dispute is that it is a collective dispute. Though a dispute may at the inception be initiated by an individual, yet if it taken up by the fellow-workers or a union, or a sufficient number of workers, it may assume the collective character and would become an industrial dispute. (*Standard Vacuum Oil Co. Ernakulam Vs. I. Tribunal, Ernakulam 1952-II LLJ 612*). A dispute which continues to retain its individual character cannot be regarded as an industrial dispute. This being the basic law, it is within the competence of the legislature to widen or narrow the coverage of an industrial dispute. The Industrial Disputes Act has also been amended to cover some individual disputes. It is not necessary that a majority should take an industrial dispute. It is sufficient if a substantial group of workmen take it up. When thus taken, it becomes an industrial or collective dispute.

Individual dispute an industrial dispute: The important amongst the above are however the amendments of 1965. By the Act of 1965, a new Section 2A has been added in Act whereby specified categories of individual disputes are also deemed to be industrial disputes. The section reads as under:

“2A. Dismissal etc. of an individual workman to be deemed to be industrial dispute-

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.”

The amendment revives, impediment in the way of workman with the necessity that to make an industrial dispute it must be taken up or espoused by substantial section of the workmen or any union of those workmen and gives an individual workman a remedy for security of his service and indirectly freedom to join or not to join any union. Thus, individual disputes could be referred to Tribunal as per Section 2A after 01.12.1965. (**National Productivity Council, 1969-II LLJ 186**).

Thereafter, by Industrial Disputes (Amendment) Act 2010 (Act No. 24 of 2010), Section 2A(a), was renumbered as Sub-section (1) and by the same Act i.e. Act No. 24 of 2010 Sub-Section (2) and Sub-section (3) have been inserted after Section 2A (1) of Industrial Dispute Act 1947 which came into effect w.e.f. 15.09.2010, which read as under:

“2A. Dismissal, etc. of an individual workman to be deemed to be an industrial dispute –

“(1) Where any employer discharges, dismisses retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have power and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-Section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1).”

Reverting to the facts of the present case, by an order dated 11.03.2013, the reference to this Tribunal for adjudication:

“1. Whether the demand of the Indian Bank Employees Union in modifying the punishment of “Dismissal” to “Compulsory Retirement” from service to Sri V. Kumar, Clerk/Shroff of Mazhavanthangal Branch, Indian Bank is justified? What relief the workman concerned is entitled?”

Accordingly, first and foremost question to be decided in present case, whether the relief as claimed by the claimant in present case, can be granted to her by this Tribunal as per the term of reference or not?

Answer to said question find place in the case of **Hochtef Gammon v. Industrial Tribunal, Bhubaneswar, Orissa and ors. AIR 1964 SC 1746** wherein it has been held as under:

“9. In dealing with this question, it is necessary to bear in mind one essential fact, and that is that the Industrial Tribunal is a Tribunal of limited jurisdiction. Its jurisdiction is to try and industrial dispute referred to it for its adjudication by the appropriate Government by an order of reference passed under s.10. It is not open to the Tribunal to travel materially beyond the terms of reference, for it is well-settled that the terms of reference determine the scope of its power and jurisdiction from case to case. Section 10 itself had been subsequently amended from time to time.

Act 18 of 1952 made substantial amendments in s.10. One of these amendments was that s.10(1)(d) now empowers the appropriate Government to refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule, or the Third Schedule, to a Tribunal for adjudication. In other words, under s.10(1)(d), the appropriate Government can refer to the Industrial Dispute not only a specific industrial dispute, but can also refer along with it matters appearing to be connected with, or relevant to, the said dispute. In that sense, the power of the appropriate Government has been enlarged in regard to the reference of industrial disputes to the Tribunal.

10. Section 10(4) which was also added by the same amending Act provides, *inter alia*, that the jurisdiction of the Industrial Tribunal would be confined to the points of dispute specified by the order of reference, and adds that the said jurisdiction may take within its sweep matters incidentally to the said points. In other words, where certain points of dispute have been referred to the Industrial Tribunal for adjudication, it may, while dealing with the said points, deal with matter incidental thereto, and that means that if, while dealing with such incidental matters, the Tribunal feels that some persons who are not jointed to the reference should be brought before it, it may be able to make an order in that behalf under s.10(3)(b) as it now stands.

11. Section 10(5) has now conferred power on the appropriate Government to add to the reference other establishments, groups or classes of establishments of a similar nature, if it is satisfied that these establishments are likely to be interested in, or affected by, such dispute. In other words, if industrial dispute is referred to a Tribunal for adjudication, and in the area within the territorial jurisdiction of the appropriate Government there are other establishments which would be affected by, or interested in, such a dispute, the appropriate Government may add them to the said reference either at the time when the reference is initially made, or during the pendency of the said reference proceedings; but in every case, such additions can be made before the award is submitted. Now, if such persons are added to the reference, the industrial Tribunal may in exercise of its powers under s.18(3)(b) summon them to appear before it.”

In the case of **Pottery Mazdoor Panchayat v. Perfect Pottery Co. Ltd. & ors.** AIR 1979 SC 1356.

“5. On July 1, 1967 the respondent purported to close down the business. We are “purported”, because whether the business was, truly and in fact, closed or not is a matter on which the parties have joined issue. The case of the appellant is that respondent had closed the place of business and not the business itself. After the closure, or shall we say the “alleged closure”, the Central Government on September 16, 1967, made a reference under Section 10(1)(d) of the Central Act to the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur, on the following question:

Whether the employees in relation to the Poly Pather Clay Mines of Perfect Pottery Co. Ltd., Jabalpur, were justified in closing down the said mine and retrenching the following 81 workers with effect from July 1, 1967. If not, to what relief are the workmen entitled?

.....

16. We are, therefore, of the view that the High Court was right in coming to the conclusion that the two Tribunals had no jurisdiction to go beyond the references and inquire into the question whether the closure of business, which was in fact effected, was decided upon for reasons which were proper and justifiable. The propriety of or justification for the closure of a business, in fact and truly effected, cannot raise an Industrial dispute as contemplated by the State and Central Acts.”

In the case of **Mahendra L. Jain & ors. V. Indore Development Authority & ors** 2005 (1) SCC 639 held as under”

“34. Furthermore, the Labour Court having derived its jurisdiction from the reference made by the State Government, it was bound to act within the four-corners thereof. It could not enlarge the scope of the reference nor could deviate therefrom. A demand which was not raised at the time of raising the dispute could not have been gone into by the Labour Court being not the subject-matter thereof.”

Hon’ble Rajasthan High Court in the case of **the Management, M/s Rambagh Palace Hotel Ltd. v. State of Rajasthan** 2000 (86) FLR 134 observed as under:

“It is settled law that the Industrial Tribunal can only adjudicate the reference made to it by the Government and cannot substitute its own reference or terms of reference or even cannot go beyond the terms of the reference. It is the function of the Tribunal to answer the reference as is referred to an once the reference has been made on the demand made by the workers/union, it is incumbent on the Labour Court or Industrial Tribunal to decide the same.....”

In **Tarsem Singh vs. Judge, Labour Court & others** 2008 (116) FLR 346, it was held as under:

“8. The Labour Court cannot enlarge the scope of reference nor can it deviate therefrom. It may be observed that the Labour that the Labour Court derives its jurisdiction from the reference made by the appropriate government and, therefore, it is bound to act within the four corners of the reference.

Hon'ble Supreme Court, in the case of **State Bank of Bikaner and Jaipur vs. Om Prakash Sharma 2006 (109) FLR 1203** laid bare the well settled proposition of law and, in the context, categorically held as follows:

"In the instant case, the award of the Labour Court suffer from an illegality, which appear on the face of the record. The jurisdiction of the Labour Court emanated from the order of the reference. It could not have passed an order going beyond the terms of reference. While passing the award, if the Labour Court exceeds its jurisdiction, the award must be held to be suffering from a jurisdictional error. It was capable of being corrected by the High Court in exercise of its power of judicial review. The High Court, therefore, clearly fell in error in refusing to exercise its jurisdiction. The award and the judgment of the High Court, therefore, cannot be sustained....."

Hon'ble Apex Court in Bhogpur Cooperative Sugar Mills Ltd. vs. Harmesh Kumar (2008 2 SCC (L&S) 128 observed as under:

"the Labour Court derived its jurisdiction from the terms in reference. It ought to have exercised its jurisdiction within the four corners thereof."

Hon'ble Apex Court in the case of **Osshiair Prasad & others vs Employer in Rlation to Management of Sudamdih Coal Washery of M/s BCCL, Dhanbad 2015 (144) FLR 830** observed as under:

"25. It is thus clear that the appropriate Government is empowered to make a reference under section 10 of the Act only when "Industrial dispute exists" or "is apprehended between the parties". Similarly, it is also clear that the Tribunal while answering the reference has to confine its inquiry to the question(s) referred and has no jurisdiction to travel beyond the question(s) or/and the terms of the reference while answering the reference. A fortiori, no inquiry can be made on those questions, which are not specifically referred to the Tribunal while answering the reference."

Thus, in nut shell the position of law on the point in issue can be summarized as under:

Undoubtedly, the Labour Court gets its jurisdiction from the reference and it is not like the Civil Court that in any one Court, which entertains every suit. The Labour Court cannot go beyond the terms of reference nor it can travel beyond the pleadings and arrogate the power to raise issues which the parties to the reference are precluded to raise. The terms of reference determine the scope of the power and jurisdiction of the Labour Court, from case to case. Whether certain points of dispute have been referred to the Industrial Tribunal for adjudication if may, while dealing with the said points, deal with matters incidental thereto. However, such power cannot be exercised by the Court/Tribunal so as to enlarge materially the scope of reference itself for the reason that the Court/Tribunal derives its jurisdiction from the order of reference passed by the appropriate Government.

In view of the above said position of law and the relief for setting aside/revoking the termination order dtd. 10.04.2002, is beyond the terms of reference, which cannot be adjudicated in present case as the same is not as per the terms of the reference dtd. 11.03.2013 referred by the Appropriate Authority (quoted hereinabove) for adjudication of the present industrial dispute.

For foregoing reasons, the prayer as made by claimant, Sri V. Kumar, is reproduced hereinabove, which is quoted once again:

"To set aside the Termination Orders of Assistant General Manager/ Disciplinary Authority in charge sheet COP:CS:41134:279:2009-10 dated 03.12.2009 issued to petitioner, Sr.No. 41134, Clerk/Shroff(u/s), Mazhavanthangal for his acts of commission and omission during his tenure as Clerk/Shroff at Mazhavanthangal in Reference No. ZOP:CS:411:34279:17:2010-11 dtd. 29.12.2010 by Respondent management as illegal and void and direct the Respondent/Management to reinstate the Petitioner to duty with all benefit including back wages and continuity of service and other benefits and thus render justice."

Cannot be granted as the same is beyond the term of the reference dated 11.03.2013, referred by the Appropriate Government for adjudication to this Tribunal.

Reference under adjudication is answered accordingly.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अप्रैल, 2024

का.आ. 695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स रिप्ले एंड कंपनी लिमिटेड के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (22/2005) प्रकाशित करती है।

[सं. एल-32012/2/2003-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 10th April, 2024

S.O. 695.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 22/2005) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of M/s. Ripley & Co. Ltd and their workmen.

[No. L-32012/2/2003- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 22 OF 2005

**Parties : Employers in relation to the management of
M/s. Ripley & Co. Ltd. and M/s. S.R. Sales Agency**

AND

Their Workmen/ STC Newsprint Handling Workers Pool.

Appearance :

On behalf of M/s Ripley & Co. : Mrs. Sujata Chowdhury, Ld. Advocate.

On behalf of M/s. S.R. Sales Agency: Absent

On behalf of the Union/Workmen: Absent

Dated: 04th March, 2024

AWARD

By order No. L-32012/2/2003 –IR(B-II) dated 01-06-2005, the Central Government, Ministry of Labour in exercise of power conferred u/s 10 (1) (d) and sub-section (2A) of Industrial Dispute Act, 1947 has referred the following disputes to this Tribunal for adjudication:-

1) Who is the employer for the News Print Handling Workers (as per list annexed) whether it is the Clearing Agents viz. M/s Ripley and Co. Ltd. and M/s. S.R. Sales Agency or whether it is the STC News Print Handling Workers' Pool. 1, Bhukailsh Road, Kolkata who used to receive money from the clearing agents and disburse their wages and other benefits?

2) Whether there was any retrenchment of the service of News Print Handling Workers in June, 2002? If so, whether they are entitled for any notice pay and retrenchment compensation from Ripley and Co. Ltd. and S.R. Sales Agency?

3) Whether the workmen are entitled to the notice pay and retrenchment compensation from the STC News Print Handling Workers Pool? If so, what relief are the disputants represented by the group of workmen entitled to?

By issuing a corrigendum dated 24-03-2006 the Govt. of India, Ministry of Labour has substituted the list of workmen attached with the reference dated 01-06-2005 with a new list of workmen and enclosed names of 205 workmen in place original 213 workmen.

The facts giving rise this reference in brief are that State Trading Corporation of India, used to import news print from various countries and who had engaged M/s. Ripley and Co. Ltd. and others as their handling contactors at Kolkata Dock. There was a news print handling workers pool named STC News Print Handling Workers Pool and who had 213 labourers working for it. M/s. Ripley and Co. Ltd. and others used to take services of the said STC News Print Handling Workers Pool for loading and unloading news print materials at Kolkata Dock. Those labours of STC News Print Handling Workers Pool were affiliated to Calcutta Port Shramik Janata Panchayat, who used to negotiate the demands of STC News Print Handling Workers Pool consisting of 205 labours who were exclusively engaged for doing works of Ripley and Co. Ltd. and others. That out of 213 labours, 8 have died.

That the union, Calcutta Port Shramik Janata Panchayat entered into bipartite and tripartite settlements with M/s. Ripley and Co. Ltd. in the year 1985, 1988, 1993, 1994, 1997, 1999 and 2002 . In view of the settlement with M/s. Ripley and Co. Ltd., M/s. Ripley and Co. Ltd. used to pay gratuity to those labours belonging to STC News Print Handling Workers Pool.

That STC News Print Handling Workers Pool, an association of labourers used to collect payment from M/s. Ripley and Co. Ltd. and disburse the payments amongst the labourers. That there was an agreement in between M/s. Ripley and Co. Ltd. and STC News Print Handling Workers Pool, for supply of labours till 31st January, 2002, though M/s. Ripley and Co. Ltd. paid wages to the STC News Print Handling Workers Pool up to April, 2002 and suddenly it stopped making payment of wages from May, 2002. M/s. Ripley and Co. Ltd. did not issue any termination notice or paid any compensation to those labours u/s 25 of the I. D. Act. Thus, those 205 workmen to be the members of STC News Print Handling Workers Pool alleged that non-payment of wages and benefits from May, 2002 by M/s. Ripley and Co. Ltd. to be illegal and they have prayed for reinstatement with full back wages.

M/s. Ripley and Co. Ltd. contested the case by filing written statement where it has alleged that it entered into an agreement with the representative of the workmen for Calcutta Port Shramik Janata Panchayet headed by the President Mr. Noor Ahmed and STC News Print Handling Workers Pool headed by its President Mr. Asrar Ahmed Khan on 1st February, 2002. During 1960 newsprint import was a canalised item and the State Trading Corporation of India was only authorised to import such newsprint and after such import the State Trading Corpn. of India used to distribute amongst the actual user and the consumers. State Trading Corpn. of India had to engage Clearing Agents to handle its imported newsprint through tender. The clearing agents were appointed by the State Trading Corpn. of India from time to time. M/s. Ripley and Co. Ltd. and M/s. G.K. Shipping Co. Pvt. Ltd. were the clearing agents on behalf of the importers to unload and store in the warehouse those imported newsprint. A group of workers who used to handle the newsprint had formed an association namely STC News Print Handling Workers Pool and was handling the job of loading and unloading newsprint at Calcutta Port.

There was a dispute amongst the workers with regard to their payment and as such they approached the Assistant Labour Commissioner (Central) and a tripartite agreement was executed. Such agreement was firstly executed on 22-05-1987 and thereafter on 26-04-1988. Tripartite agreement was executed on 21-06-1990 and which was valid for three years. In the said tripartite agreement it was settled that payment of wages would be made by the handling agents to STC News Print Handling Workers Pool. Such tripartite agreement was executed in presence of the Assistant Labour Commissioner. After execution of such tripartite agreement M/s. Ripley and Co. Ltd. used to make payment of handling charges directly to the STC News Print Handling Workers Pool, through cheques and against the bills raised by the said STC News Print Handling Workers Pool. The management of M/s. Ripley and Co. Ltd. was not required to verify as to whether the payments were distributed amongst the workers or not. The office bearers of the worker's Pool was solely responsible for distribution of labour charges to the workers. Such practice was followed since 1987 till 2002.

That after 1999 Cargos were diverted to Haldia Port and few cargos were unloaded at Calcutta Port. Despite decrease in the import of newsprint STC News Print Handling Workers Pool continued to raise bills and used to force the handling agents to make payment even for the works which was not done. The management of M/s. Ripley and Co. Ltd. was forced to make payment even after the expiry of the agreement on 31st January, 2002. The gratuity, provident fund and other incentives were paid to the workers through their Pool headed by its President. The Pool has its own bank account. The said Pool was not exclusively working for M/s. Ripley and Co. Ltd. but also used to work for other clearing agents. The labours of the pool used to work with several clearing agents at the Port and as such there was no direct or indirect relationship of employer and employees between the management of M/s. Ripley and Co. Ltd. and those labourers belonging to the Pool, though the Pool was handling the unloading of newsprint in the Port area for M/s. Ripley and Co. Ltd. for last 20 years. That the labours of the Pool not being the employees of M/s. Ripley and Co. Ltd., question of termination of their services without notice does not arise. Therefore, it has prayed for dismissal of the reference.

M/s. S. R. Sales Agency in its written statement has alleged that it started working as handling agent w.e.f. 1997 after getting CHA License from the Customs Authority. That the present case is not maintainable against it in view of the admission made by the workmen in para 11 of their claim statement where they have admitted that M/s. S. R. Sales Agency never employed them. That some other workmen of STC Newsprint Handling Workers Pool were employed by M/s. S. R. Sales Agency and who have filed a separate proceeding u/s 33 C (2) of the I.D. Act, being L.C. No.2 of 2004 against M/s. S. R. Sales Agency. That there exists no relationship of employer and employees between M/s. S. R. Sales Agency and 205 workmen of STC Newsprint Handling Workers Pool, who have raised the present dispute. Therefore, it has prayed for dismissal of the case.

Workmen in para 5 of their rejoinder filed against the written objection filed by M/s. S.R. Sales Agency has admitted that if M/s. S. R. Sales Agency wanted exemption from the present reference case no. 22 of 2005 they have no objection. The present set of workmen whose interest is involved in the present reference have no connection or relation with M/s. S.R.Sales Agency. The actual workmen who have connection with M/s. S.R. Sales Agency have already filed L.C. No.02 of 2004 which is pending before this Tribunal. That the claim made in L.C. No.02 of 2004 has no relation with the disputes involved in the present case.

The record shows the workmen have examined Md. Faruque, son of Late Noor Ahmed, vice President of the Pool as W.W. No.1 and Asrar Ahmed Khan, President of STC Newsprint Handling Workers Pool as W.W. No. 2.

From the side of the workmen, representation made before the A.L.C. (Central), minutes of failure of conciliation proceeding dated 28-01-2003, failure report of A.L.C. dated 10/17-02-2003, photocopy of Bipartite and Tripartite agreements and letter dated 27-12-2002 issued by the Conciliation Officer have been produced and which have been marked as Exhibit-W1, W-2, W-4 (collectively) and W-5.

On the other hand no evidence whatsoever either oral or documentary have been produced from the side of the management of M/s. Ripley and Company Ltd. and M/s. S.R. Sales Agency.

At the time of hearing of argument neither the workmen, nor representative of STC Newsprint Handling Workers Pool or representative of M/s. S.R. Sales Agency were found present. Only Ld. Counsel of M/s. Ripley and Company was present and heard. Therefore, present award is passed on the basis of materials on record.

It is admitted that State Trading Corpn. of India was the sole importer of newsprint, but Exhibit-W-1, Exhibit-W-2 and Exhibit-W-3 show that M/s Ripley and Co. Ltd. is not the sole agency to handle the newsprint at Calcutta Port. Exhibit W-1 representation of STC Newsprint Handling Workers Pool before ALC (Central) dated 27-12-2002, prima facie shows that several other clearing agents were engaged in handling newsprint at Calcutta Port namely ;

- (1) M/s. Wooma & Co. (Forwarders) Pvt. Ltd, 3A, Garstin Place, Kolkata-01,
- (2) M/s. S.R.Sales Agency, 14/2 Old China Bazar Street, Kolkata-01,
- (3) M/s. Eastern Clearing Agencies Pvt. Ltd., Mangalam Building 5th floor, Kolkata-01,
- (4) M/s. Lee & Muirhead Ltd, 5 Clive Row, Kolkata -01 and
- (5) M/s. Ripley & Co. Ltd., 5 Clive Row, Kolkata- 01 etc.

It further shows that STC Newsprint Handling Workers Pool, has alleged deprivation of work to the labours of its Pool by the above named newsprint handling agencies since June, 2002. It further reveals that due to stoppage of work, Pool workers have faced immense financial problems and requested the Asst. Labour Commissioner to direct the clearing agents to engage its Pool workers.

Exhibit-W-2 minutes of conciliation proceeding held between STC Newsprint Handling Workers Pool and five Clearing Agents. Such minutes also reflects STC Newsprint Handling Workers Pool used to work, for five different newsprint handling agencies working at Calcutta Port and failure of the conciliation due to the absence of those clearing agents.

Exhibit-W-3, failure report submitted by ALC (Central) before the Ministry of Labour on 10-02-2003 shows that a group of 206 workmen doing loading and unloading of newsprint at Calcutta Port Trust area have lodged a complaint about abrupt stoppage of work and other benefits by five clearing agents handling newsprint at Calcutta Dock w.e.f. June, 2002 without any notice.

Exhibit-W-4, Memorandum of Settlement dated 22-05-1987 arrived between M/s. G.K. Shipping Pvt. Ltd., M/s. Ripley & Co. Ltd., Calcutta and Calcutta Port Shramik Janata Panchayet in a conciliation proceeding held by A.L.C. –Central shows fixation of monthly wages of different categories of labourers working for STC Newsprint Handling Workers Pool. It shows that Pool consist of following categories of labourers : (1) 193 general labours, (2) 14 Sirdars, (3) 11 Supervisors, (4) 3 Senior Supervisors and (5) 1 Senior Staff.

Nothing has come on record to show those General Labours, Sirdars, Supervisors, Senior Supervisors and Senior Staff mentioned above exclusively worked or employed by M/s. Ripley & Co. and by M/s. G.K. Shipping Pvt. Ltd. and not by other four clearing agents whose names appear in Exb. W-1. In the instant reference name of M/s. G.K. Shipping Pvt. Ltd. is missing along with other three agents mentioned in Exb. W-1.

Exhibit –W-1, W-2, W-3 and W-4 prima facie prove labourers working in Calcutta Port Trust area are controlled by STC Newsprint Handling Workers Pool, an individual body or by an organisation of labourers. It was STC Newsprint Handling Workers Pool, who used to supply labourers of different ranks to handle loading and unloading of newsprints to different clearing agents of sole importer State Trading Corporation of India. It used to charge different rates as fixed in Exshibit-W-4 for different categories of labourers deployed to handle the newsprints to the clearing agents as per their requirement. So, it appears that labours working in Calcutta Port area are controlled by the Pool. That the Pool used to control and supervise the job of its labourers and used to make payment to the labourers for the work done by them after raising bill before the concerned clearing agent for which it supplied labourers.

Therefore, a labourer belonging to a Pool and working for different clearing agents under the control and direction of Pool to which it is a member cannot claim to be an employee of a specific clearing agent and cannot claim to be retrenched from the job of labourers, if the clearing agent stop giving the job of loading and unloading to the Pool. It is the prerogative of the clearing agent to engage or not to engage labourers belonging to the Pool. It is their right to engage any other labours of their choice to do their handling works at good prices.

Further, it is an admitted fact that STC Newsprint Handling Workers Pool has also field a case being No. L.C-02 of 2004 u/s 33 C(2) of the I. D.Act against Ananda Bazar Patrika and M/s. S.R. Sales Agency, other newsprints clearing and forwarding agents at Calcutta Port. The records of L.C. 02 of 2004 further proves that STC Newsprint Handling Workers Pool, never used to work exclusively for a particular clearing agent namely M/s. Ripley & Co. Ltd, rather the Pool used to supply labours who are members of the Pool to different clearing agents including Ananda Bazar Patrika apart from M/s. S.R. Sales Agencies.

Exhibit-W-1, Exb. W-2, W-3, W-4 and from record of L.C. 02 of 2004 prove that about 193 general labourers working in Calcutta Port Trust area used to work for STC Newsprint Handling Workers Pool and it is the Pool having 14 Sirdars, 11 Supervisors, 3 Sr. Supervisors and 1 Sr. Staff who used to control and supervise the work of those 193 general labourers. It is the Pool who used to depute or deploy labourers of its Pool to different newsprint clearing and forwarding agents engaged by the sole importer of newsprints i.e. State Trading Corporation of India. The above exhibited documents further prove that M/s. Ripley & Co. Ltd. is not the sole clearing agent working for State Trading Corporation of India but there were other five or six clearing and forwarding agents of newsprints working for State Trading Corporation of India.

Therefore, those 208 labours who are members of the Pool who worked/ work for different agencies or persons at Calcutta Port area cannot be said to be exclusive employees engaged either of M/s. Ripley & Co. Ltd. or that of M/s. S.R. Sales Agency and as such the question of termination or retrenchment of those labourers of Pool by above two clearing agents does not arise and payment of compensation thereof. In fact, this Tribunal finds the claim of the labourers and the Pool to be speculative and does not find any merit in the dispute under reference. Accordingly, Reference No. 22 of 2005 is dismissed and an award to that effect is passed.

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 10 अप्रैल, 2024

का.आ. 696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (43/2005) प्रकाशित करती है।

[सं. एल-12011/97/2005-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 10th April, 2024

S.O. 696.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 43/2005) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Indian Overseas Bank and their workmen.

[No. L-12011/97/2005- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 43 OF 2005

Parties : Employers in relation to the management of

Indian Overseas Bank

AND

Their Workmen

Appearance :

On behalf of the Management : Mr. R.N.Majumdar, Ld. Advocate.

On behalf of the Union/Workmen: Mr. Monoranjan Bhunia , Ld. Advocate.

Dated: 29th February, 2024

AWARD

By order No. L-12011/97/2005 –IR(B-II) dated 15-09-2005, the Central Government, Ministry of Labour in exercise of power conferred u/s 10 (1) (d) and sub-section (2A) of Industrial Dispute Act, 1947 has referred the following disputes to this Tribunal for adjudication:-

“Whether the action of the management of Indian Overseas Bank by freezing the permanent allowance and change of designation while giving effect to 10 years rotational transfer is violative of bipartite settlement and the action of the management without giving notice u/s 9A of I.D. Act, 1947 is justified and legal? If not, what relief the workmen concerned are entitled to?”

The facts giving rise the present referenced in gist are that the union which has espoused the present dispute is affiliated to Bank Employees Federation of West Bengal, one of the signatories of various bipartite settlements executed between the management of Indian Bank association and their recognised trade unions, has alleged that during 2003 while effecting 10 years rotational transfer of messengers and clerical cadre staff including those staff drawing special allowance in permanent nature was frozen w.e.f. 30-06-2003. It has been alleged that such decision has been taken by the management unilaterally without informing the unions. Freezing of permanent allowance tantamount to change in the service condition of the employees and which is in violation of bipartite settlement.

It has been alleged that as per provision of bipartite settlement made from time to time special allowance such as Cashier allowance, Stenographer allowance, Telephone Operator allowance etc. was given to the employees in the clerical cadre for performing or for discharging certain additional duties and functions over and above the routine duties and functions of a workman in the same cadre, which has been classified in the Bipartite Settlements. Such special allowance is linked with D.A., P.F., Gratuity, H.R.A. and all other benefits to become part and parcel of the employees' service conditions.

The union has filed a representation against such decision of the bank before the General Manager, Central Office, Chennai but of no avail. They have raised the issue before the Labour Commissioner but resulted in failure. Thus, they have alleged, those workmen who are employed permanently as Cashier and Stenographers cannot be deprived of special allowance just asking them to work as ordinary clerks.

The special allowance was subjected to increase as part of wage settlement and there is no provision of freezing the allowance by the bank. Thus, union has prayed for withdrawal and cancellation of the decision of the bank to freeze the permanent allowance of the clerical members while implementing 10 years transfer norms and direct the bank to grant special allowance to those employees who were drawing the same as permanent allowance.

Such claim of the union has been contested by the bank and alleged that the union which has espoused the dispute is not a recognised union though it may be affiliated with a recognised union. The issue involved in the present dispute is of national importance affecting the employees of Indian Overseas Bank, throughout India and as such this Tribunal lacks jurisdiction. The award, if any, passed by this Tribunal would not be binding only the clerical staff of Regional Office, Kolkata and to the employees of other branches of the bank.

The union which has espoused the present dispute being affiliated to the registered union is bound by terms and conditions of 8th Bipartite Settlement of 2005. It has further stated for smooth and efficient functioning of its branches all over India the rotation of staff is essential to maintain high level of productivity, relief from monotony of same kind of work and preventive vigilance to avoid development of vested interest. The transfer policy was implemented throughout in India in all the 38 regions of the Bank. In the year 2003, the employer Bank has implemented the transfer under 10 years norms and completed the process in all the regions including Kolkata (Metro) and (Non Metro) regions, with cut-off date for the purpose was fixed as 30th June, 2003 enabling them to report at their respective new places of posting on the next working day i.e. 1st July, 2003. Those who have attended the age of 55 years and physically challenged members who were drawing conveyance allowance were exempted from the purview of 10 years transfer policy.

As per Central Office Guidelines transfer can be effected in all places within city/town, municipality/urban agglomeration etc. but, while giving effect to the transfer in the year 2003, the Regional Office of Kolkata ensured that all those affected staff were transferred within the higher City Compensatory Allowance and higher HRA as applicable to Kolkata city branches. The transfer was not made outside the CCA area to protect their salary.

The memorandum of settlement dated 31st October, 1979 contains a clause where it has been mentioned that entrustment of duty attracting special allowance does not amount to granting an additional designation. That special allowance duties do not include routine duties of the cadre (clerical/subordinate) which a workman has to perform normally. Special allowance duty refers to those additional duties performed by the employees in addition to his routine duties. Those clerks who were not recruited as Stenographer or Telephone Operators were/are entitled to get special allowance so long they are entrusted with additional duties.

Those Stenographers, Telephone Operators who have been transferred, their special allowance have been fully protected and their terms of employment have not been changed as alleged by the unions, but those employees

recruited in the post of Clerk cannot claim that they were appointed in the cadre of Cashier as post of Cashier or duty of Cashier is entrusted to a clerk only subsequent to his/her employment and on fulfilling certain criteria.

It has also alleged that if there is a violation of bipartite settlement regarding the interpretation of its clause then such matter should be taken at the level of Indian Bank Association and All India Bank Employees Association for discussion and settlement. Thus, it has alleged the present reference is not maintainable and liable to be dismissed.

The union has examined two workmen affected by the disputed transfer order viz. Sri Surya Sarathi Majumder and Sri Sabyasachi Sengupta as W.W. No.1 and W.W. No.2. The order sheet dated 28-08-2006 shows 10 documents filed by the union have been marked as Exhibit-W-1 to W-8 on formal proof being dispensed with. Another 7 documents have been marked as Exhibit-W-9 to W-12/1 through W.W. No. 1 Sri Surya Sarathi Majumdar on 27-11-2006.

On the other hand the management has examined Sri Apurba Mukherjee, Sr. Manager as M.W. No.1, but no document whatsoever have been produced and exhibited by the management.

The union has filed written notes of argument on 28-10-2024 and a fresh notes of argument on 20-01-2023, while the management has filed its written notes of argument on 31-08-2023.

Ld. Counsel for the Union has cited the following decisions in the written notes of argument in support of his contention:-

1. Hindustan Petroleum Corpn. Ltd. –vs- H.L. Trehan & Ors. AIR 1989, SC 568.
2. Indian Overseas Bank vs- their Workmen, FLR 1969 (18), page 108.
3. Shaw Wallace & Co. –vs- Central Govt. Industrial Tribunal, 1970, LAB I.C. 90 (Vol. 3 C.N. 24) and
4. LIC of India vs- Chandrasekhar Bose & Ors., AIR 1980 SC 2181.

On the other hand the Ld. Counsel for the management has cited the following decisions in its written notes of argument :-

1. National Engineering Industrial Ltd. –vs- State of Rajasthan & Ors. AIR 2000 SC 469 and
2. P. Virudhichalam & Ors., vs- Management of Lotus Mill & Anrs., AIR 1998 SC 554.

The management has alleged the dispute that has been raised in the present reference is an all India based dispute and touches all the award staff all over the country of the Employer's bank. Therefore, the present Industrial Tribunal is not competent to decide the dispute which can be decided only by a National Industrial Tribunal. The award, if any, passed by this Tribunal would not bind those staff of the bank who are working in the branches or offices outside the Regional Office of Calcutta and if the award is passed in favour of the union the same will create a discrimination inter se the similar categories of the staff of the bank.

However, the union has alleged that in the present reference, the circular no.67 dated 04-06-2003 was issued by the Regional Office, Calcutta (Metro) and which is under challenge. It has also been stated that management has failed to produce similar circular issued by the other Regional Branches of the bank throughout India or by the Central Office, Chennai.

The Central Govt., the appropriate Govt. has referred the dispute u/s 10(1) (d) and (2A) of the Industrial Disputes Act, to this Tribunal if the Govt. is of opinion that the issue involves the employees of the bank throughout India then it could have referred the dispute to the National Industrial Tribunal constituted u/s 7B of the I.D. Act.

The clerical and ministerial staff of the regional office of the bank situated in Calcutta is affected by the circular dated 04-06-2003, they cannot be deprived of their claim merely because some other employees similarly or dissimilarly situated may also claim the same status.

Gone through the Exhibit No.W-2 which appears to be the Regional Office Circular No.67 dated 04-06-2003 and issued by the Indian Overseas Bank, Regional Office (Metro), Calcutta to its all branches, Extension Counters and offices in the Region. Such circular relates to transfer of clerical members and messengers who have completed 10 years of service in branch/office/ extension counter as on 31-10-2002.

Since the present dispute is in between a bank, a financial institution and its employees and in view of Section 2(a) the Act of 1947, the Central Govt. is the appropriate Govt. in relation to any industrial dispute concerning such establishment or institution and its employees. In the present case the dispute revolves around circular no.67 dated 04-06-2003 issued by Calcutta Regional Office of Indian Overseas Bank. Further, Exhibit-W-2 does not reveal that such circular was issued by Regional Office in compliance of any circular regarding transfer of clerical and ministerial staff completing 10 years of service in a particular branch/office/Extension counter issued by the Head Office or Central Office situated at Chennai.

Thus, in view of above this Tribunal holds that this Tribunal has jurisdiction to entertain the present reference and the dispute.

Admittedly, the union which has espoused the present dispute is an affiliated unit of Bank Employees Federation of India, a signatory to the bipartite settlement dated 2nd June, 2005 and it is bound by the terms and conditions laid in the bipartite settlement of 2005.

It is the case of the union, the circular no.67 dated 04-06-2003 is violative of the bipartite settlement and liable to be set aside.

While the case of the management of bank is that special allowance duty do not include the routine duties of the cadre (clerical/subordinate) which a workman has to perform normally. Special allowance duties are those duties which are performed in addition to the routine duties and will entitle a workman to the relative special allowance. Those employees who were not recruited as Steno or Telephone Operators are granted special allowance so long they are entrusted with the additional duties. The disputed transfer policy has protected the special allowance drawn by those employees who are recruited as Steno and Telephone Operator on their transfer. That only those employees who were recruited as a clerk and subsequently entrusted with Chief Cashier duties by the bank became eligible to draw relative special allowance by virtue of such entrustment and would continue to get such special allowance on his transfer even if he was not posted as Chief Cashier in a new place of posting. That due to computerization the job of Stenographer and Telephone Operator have obsolete and as such their services are utilized as a Clerk but they were not deprived with the special allowance to which they were entitled by virtue of their appointment or recruitment to the cadre of Stenographer and Telephone Operator.

Perused the Memorandum of Settlement dated 2nd June, 2005 executed in between the Management of 50 Banks, represented by Indian Banks Association and their workmen represented by All India Bank Employees' Association, National Confederation of Bank Employees, Bank Employees' Federation of India, Indian National Bank Employees' Federation and National Organization of Bank Workers, from where it appears while executing such settlement in 2005 earlier settlements of different banks executed on different dates continued to govern the service conditions of the workmen except to the extent the same are modified by the settlement of 2005.

Clause 30 of such settlement specifically provides that with the computerization/ mechanization and technological upgradation and introduction of state-of-the-art technology and equipment, bank may review the existing jobs, work process, system and procedure and re-engineer them and redesign and assign role and duties and responsibilities to their staff within the provision of the settlement.

Therefore, in view of clause 30 of the MOS of 2005, this Tribunal is of view due to computerization and introduction of modern technology, the service of Stenographer and Telephone Operator in the bank might have become obsolete and thereby assigning them with the job of a Clerk will not tantamount to change of their service conditions. Moreover, proviso (a) of section 9A specifically provides that where the change is effected in pursuance of any settlement or award there is no need to issue notice of changes to the employees or to their union.

Further, Clause 31 of the MOS deals with deployment of staff and from where it appears the bank is given liberty to transfer its staff irrespective whether they have completed 10 years posting in a particular branch, office and Extension Counter. Nothing is there that a person holding a special post, carrying special allowance in a branch has to be transferred /deployed /posted in the same special post until and unless the post is a special post like Stenographer and Telephone Operator.

Be that as it may, the main dispute of the union is the freezing of permanent allowance to the clerical staff on transfer by the bank by issuing circular dated 04-06-2003.

Exhibit-W-2 is the disputed circular and the heading of which reads as "Transfer of Clerical Members and Messengers who have completed 10 years in a Branch/ Office/ Extension Counter as on 31-12-2002".

It further reads (1) these transfer shall be effected before 30-06-2003 and the transferee shall have to report at their respective places of posting on or before 01-07-2003.

(2) Transfer of those members, who are drawing special allowance on permanent basis will not result in reduction of emoluments to them. However, they will cease to draw the same, if promoted and/ or transferred / deputed to any Branch at their request. The permanent allowance so protected for clerical staff members, shall be frozen at the same amount as on 30-06-2003.

(3) If the members drawing special allowance on permanent basis are will to forego the same, their request for transfer to any branch shall be considered out of turn overlooking the senior of transfer request registered.

(4) Clerical Staff members attached to currency chest are drawing cashier category "B" allowance, which is exclusive to their job at currency chest. Therefore, the same shall not be protected on their transfer.

(5) Physically handicapped category of members (clerical/ messenger) who are drawing conveyance allowance applicable to orthopedically handicapped or blind person will be transferred, subject to their consent in writing.

Gone through the Memorandum of Settlement dated 2nd June, 2005. There is mention of different type of pays including 'special pay' but not about any 'permanent allowance' as mentioned in Exhibit-W-2. No explanation has come either from the side of the union or from the side of the management what type of allowance is termed as 'permanent allowance'. However, from the oral evidence which have come on record, it is seen that permanent allowance appears to be the allowance which is paid by the bank to those clerks holding special post of Cashier, Senior Cashier, Head Cashier, Stenographer and Telephone Operator.

Exhibit-W-3 series the transfer orders of Telex Operator and Head Cashiers clearly show that special allowance were paid to them on being entrusted with special duties of Telex Operator and Head Cashier on temporary basis. Such allowance not being paid on permanent basis stand frozen on their transfer to the posts which do not hold any special allowance. Thus Exhibit-W-3 prove that special allowance were paid to those clerical staff holding special post and which the union has termed as 'permanent allowance' for reason best known to it or to create confusion.

Clause 11 of the Memorandum of Settlement deals with 'special pay' and which read as follows :-

11. Special Pay (1) In supersession of Clause 11 of the Bipartite Settlement dated 27th March, 2000, with effect from 1st November 2002:

(i) The Special Pay payable to the clerical staff and subordinate staff in banks other than State Bank of India, shall be as mentioned under Part-A in Schedule II to this Settlement.

(ii) The duties and responsibilities as improved or retained as they are and attracting Special Pay in banks other than State Bank of India shall be as set out in Schedule III and shall be in partial modification of Schedule III to the Bipartite Settlements dated 17th September 1984 and 14th February 1995.

(iii) Posts attracting Special Pay as listed in Schedule II to the Bipartite Settlement dated 27th March 2000 and which do not find a mention in Part A of Schedule II to this Settlement shall stand discontinued. Present incumbents in these posts (other than those who are on locum tenens basis) shall continue to perform functions attached to such posts (as detailed in Schedule III to Bipartite Settlements dated 17th September 1984 and 14th February 1995) if such functions are required to be performed or else their services shall be utilised for performing such other duties of the cadre as per requirement and they will draw special pay as mentioned in Part-B of Schedule II to this Settlement. Once such an employee is promoted or is assigned duties of a higher nature or is retired or ceased to be in service for any reason whatsoever or is divested of the function of the post in accordance with the provisions in the Bipartite Settlements, there shall not be any further appointment / entrustment to that post.

(iv) In all other aspects, the general rules and provisions contained in Chapter V of the Bipartite Settlement dated 19th October 1966 relating to special pay carrying posts, as modified from time-to-time, shall continue to apply.

(v) Graduation Pay and Professional Qualification Pay payable to the clerical staff in banks shall be as mentioned in Part 'C' of Schedule II to this Settlement.

(vi) The special pay, graduation pay and professional qualification pay as mentioned in Schedule II shall rank for superannuation benefits.

(vii) The rates of Special Pay and the duties of Special Pay carrying posts for workmen staff in State Bank of India may be reviewed and settled at the bank level.

(2) In partial modification of Part II of clause 23 of the Bipartite Settlement dated 12th October 1970, a member of the non-subordinate cadre acquiring a Graduate/National Diploma in Commerce or a JAIB/CAIB (either or both parts) qualification/s at a time when he/she does not have the requisite number of increments in the scale to be earned as advance increments shall in the first instance be released increments for such qualification/s acquired to the extent available in the scale and in lieu of the remaining increments(s) not available for being so released as advance increments be granted / released the first instalment of Graduation Pay or PQP, as the case may be. Release of subsequent instalments of Graduation Pay or PQP shall be with reference to the date of release of Graduation Pay or PQP under this clause.

Provided that in the case of an employee acquiring such qualifications after reaching the maximum of the scale of pay, he shall be granted from the date of acquiring such qualification the first instalment of Graduation Pay or PQP, 11 12 AIBEA as the case may be and the release of subsequent instalments of Graduation Pay or PQP shall be with reference to the date of release of Graduation Pay or PQP under this clause. Provided further that in a case where the employee as on the date of this settlement, has already acquired any of the said qualifications and has not earned any increment or Graduation Pay / Professional Qualification Pay on account of acquiring such qualification, he may be, with effect from 1st November 2002 or the date of acquiring any of the said qualifications, whichever is later, released increment/s or Graduation Pay / PQP as provided herein above.

Part-A of Schedule-II of the settlement for Clerical Staff is as follows :

Sl. No.	Post	Amount of Special Pay (Rs.)
1.	Telephone Operator	155
2.	Audit Clerks – Category 'A'	260
	Category 'B'	490
3	Agricultural Assistant	370
4	Teller	840
5	Stenographer	745
6	Asstt.Head Cashier	475
7	Head Cashier-I	925
8	Head Cashier-II	1300
9	Special Assistant	1600
10	Computer Operator – A	910
11	Computer Operator - B (with passing powers)	1100

Note: 1. In the case of Special Assistant, the Special Pay payable for the period 1st November 2002 to the date of the Settlement shall be Rs.1,400/- p.m. and thereafter Rs.1,600/- p.m. 2. Erstwhile Teller Category 'B', Assistant Head Cashier - Unit s of 5 and above, Head Cashier Category 'D' and Head Cashier Category 'E' shall now be termed /named as Teller, Assistant Head Cashier, Head Cashier - I and Head Cashier - II respectively.

The duties and responsibilities attracting special pay is set out in Schedule-III and which is as follows:-

SCHEDULE – III

SPECIAL PAY DUTIES

The Special pay duties do not include the routine duties of the cadre (clerical / subordinate) which a workman has to normally perform; but merely refer to those special allowance duties which if performed in addition to the routine duties will entitle a workman to a special pay on the terms and conditions provided in Chapter V of the First Bipartite Settlement as modified.

For removal of doubts it is clarified that the workman entrusted with duties attracting special pay can be required to perform routine duties of his cadre and that the following duties shall inter alia form part of the normal duties of the clerical cadre and for performance of those duties no special pay shall be payable :

- (i) Acknowledgements of inward mail received.
- (ii) Receipt of cheques, drafts, dividend warrants, pay orders and other like instruments other than bills and giving acknowledgements in the counterfoil.
- (iii) Delivery of cheque books subject to authorisation by competent authority.
- (iv) Issue of cash receipts.
- (v) Issue of E.S.I. stamps wherever applicable or may become applicable.
- (vi) Recounting of currency notes by cash department staff.
- (vii) Ensuring the proper contents in covers and envelopes including registered ones before dispatch.

DUTIES OF SPECIAL PAY CARRYING POSITIONS IN CLERICAL CADRE

POSTS	DUTIES
Telephone Operators	Their work involves operating a Telephone PBX/EAPBX Board with a minimum of three external lines on regular assignment.
Audit Clerks Category 'A'	Clerks in the Internal Audit Department whose work involves audit checking of completed vouchers, entries, statements, balances, books of accounts, etc. with a view to confirming their correctness and ascertaining whether office procedures and rules are being correctly followed. The irregularities detected by them are reported to the head of the Audit Department and/or his immediate superior, who is responsible for taking

	necessary action. (Note: checking of returns and statements from branches by other than Internal Audit Department clerks would not be covered by 'audit checking').
Audit clerks- category 'B'	Audit Clerks Category 'B' would be audit clerks attached to inspectors on tours and will perform all routine checking functions and generally assist the inspector in the functions including preparation and typing of reports. Their duties include: 1. Assisting in the counting of cash balances, securities, etc. in the presence of the inspecting officials; 2. Assisting the inspecting officers in checking the quantities and values of the securities charged to the bank; 3. Checking the balancing of various deposit account ledgers and verifying the outstandings in inter-branch/sub-office(s) items-in-transit, suspense sundry deposits, drafts payable, term deposits and deposits at call accounts; 4. Checking items of stationery and marking off vouchers and acknowledgements and assisting in the examination of vouchers other than those of inter-branch/sub office(s) items-in-transit, suspense charges, sundry deposits and stationery accounts; 5. Assisting in preparing the audit returns/ reports and typing and generally assisting the inspecting officer in his functions as may be required.
Tellers	Passing and cash payment of all cheques/ withdrawal forms/travelers' cheques/ gift cheques/demand drafts/pay orders/bank orders, etc. upto and including Rs.10,000/-. Receipt of cash and issuance of pre-signed drafts/gift cheques/travellers' cheques/pay orders/bank orders, etc. both against cash and transfer upto and inclusive of Rs.15,000/-.
Stenographers	Employees required to take dictation in shorthand and/or type letters, statements, documents, etc. and attend to secretarial work.
Assistant Head Cashiers	Their job is to assist the head cashier in looking after and checking the work of clerks in the cash department.
Head Cashier - I	<p>Their duties involve :</p> <ol style="list-style-type: none"> 1. holding the bank's cash, key and/or other valuables in safe custody jointly with an officer and being accountable for them and being responsible for the running of the cash department; 2. opinion compilation; 3. verification of vernacular signatures/ endorsements; 4. Countersigning cheques and/or drafts (on selves or correspondents), payment orders, deposit receipts, etc. 5. Attending to Government Treasury work. 6. In banks where the practice of discharging bills/hundies, for payment received only, is in existence, it may be continued to be done by this category.
Head Cashier- II	<p>Their duties involve :</p> <ol style="list-style-type: none"> 1. holding the bank's cash, key and/or other valuables in safe custody jointly with an officer and being accountable for them and being responsible for the running of the cash department; 2. opinion compilation; 3. verification of vernacular signatures/ endorsements; 4. countersigning cheques and/or drafts (on selves or correspondents), payment orders, deposit receipts, etc. 5. attending to Government Treasury work; 6. discharging/endorsing bills, cheques, etc.; 7. being in charge of clearing and godown departments, etc.; 8. passing independently clearing and transfer cheques, vouchers, etc. (whether credits or debits) upto and including Rs.50,000/- and cash vouchers upto Rs.50,000/- jointly with an authorized person.
Special Assistants	Special Assistants will be accountable and responsible for running of the department/ section under them and their duties will involve looking after and checking the work of

	<p>other clerk or clerks and sub staff and will include :</p> <ol style="list-style-type: none"> 1. Passing independently, manually or online, cash instruments upto Rs.35,000/- and clearing and transfer cheques vouchers etc., (whether credits or debits) upto and including Rs.1,50,000/-. Passing will include verification of signatures and scrutiny as to the correctness of endorsements on and other particulars of such instruments. There shall be no limits for verification of signatures, passing of authenticated credit vouchers/entries and for verifying authenticated vouchers in the ledgers, books, computer print-outs etc. 2. Accept, verify and post cash / transfer / clearing cheques and other instruments, as the case may be, in appropriate books of accounts / ledgers, either manually or online, and give due acknowledgements. 3. Signing vouchers, cheques, drafts, mail transfers, pay orders, advices such as non payment advices, inter branch fate calling 41 42 AIBEA advices, bill schedules, demand notices, statements certificates etc., 4. Checking all vouchers, advices, statements, cheques, drafts etc., bills and books of accounts including current savings and other ledgers, cash, postal and revenue stamps, franking machine balances, exchange, discount, brokerage calculations and initialling by way of authenticating them for accuracy/correctness; 5. Checking, manually or online, current, savings and other accounts, 6. Checking the coding and decoding of telegrams (excluding check symbols or cyphers). 7. Discharging, endorsing cheques, bills, etc., 8. Perform, when required in a computerised set up, system control functions, either jointly with an officer or independently, upon specific authorisation in this regard; 9. Briefly explain, the features of Bank' s various products and services to customers, to reply their queries and to refer interested customers to appropriate personnel; 10. Inspecting godown (only in banks where such work is already being done by workmen). <p>For the purpose of efficient and effective functioning of the section or department the special assistant shall ensure that all acts, things and steps necessary therefore are taken by himself or by the clerks placed under him and shall ensure that, wherever necessary :</p> <ol style="list-style-type: none"> a) Reminders are sent on time and followed up b) Pass sheets/books are filled up and issued promptly c) Deposits are renewed on due dates or reminders sent to the parties d) Standing instructions are complied with e) Bills are accepted and due dates diarised/ advised and followed up f) Interest, commissions and service charges are collected g) Proceeds of bills are received or remitted promptly; h) Confirmation of balance of accounts of the customers and its follow up. i) All securities relating to the department/ section of which the special assistant is in charge are secured and/or kept in proper custody and properly handed to the authorized person at the close of the day. j) Balances promptly taken, tallied and reported and followed up and also returns submitted; k) Advices and/or duplicate advices / summaries are issued /responded promptly, whenever called for; l) Checking the proper recording of entries and all relevant particulars in regard to accounts opened under due authorisation.
Agricultural Assistant	<ol style="list-style-type: none"> I) To assist in the bank's lending and/or operations for agricultural development and/or financial assistance to small enterprises (other than small scale industries)

	<p>such as vegetable/fruit vendors, artisans, self employed persons including beneficiaries under the differential rate of interest scheme</p> <p>II) To distribute and collect application forms and assist the farmers/small borrowers in filling up the forms 43 44 AIBEA</p> <p>III) to scrutinise application forms, title deeds, farm plans etc., to ensure that applications are complete in all respects and the particulars furnished in the forms are prima facie in order and for this purpose he may be required to visit the farms for verification and for collection of relevant data.</p> <p>IV) To take necessary steps to ensure that the periodical details, as called for are received from the farmers/small borrowers in time.</p> <p>V) To keep in constant touch with farmers and to bring any adverse features to the management's notice.</p> <p>VI) To verify farms/all farms machinery/ equipments livestock/tractors, etc.,</p> <p>VII) To verify proper utilisation of the bank's loans or the progress in work in respect of which loans are granted and to furnish reports on such verifications.</p> <p>VIII) To make efforts and effect recoveries upto amounts not exceeding Rs.15,000/- from farmers/ small borrowers from their place of work/residence, subject to the necessary arrangements being made with regard to fidelity and transit insurance and personal risk insurance by the bank. Note: Banks will evolve appropriate procedure about issuance of provisional receipts etc., of the cash not exceeding Rs.15,000/- collected on a day by an agricultural assistant from the agricultural/ small borrowers / depositors.</p> <p>IX) To assist in the deposit mobilisation efforts by encouraging farmers/small borrowers to deposit their savings in the Bank.</p> <p>X) To collect information about the conditions of crops in the villages.</p> <p>XI) To collect necessary data for determination of village, adoption of financing of agriculture like farmers' land holdings, availability of infrastructure facilities, source of irrigation, use of tractors, pumpsets etc., credit facilities available in village, recovery performance and the like.</p> <p>XII) To maintain liaison with Land Record and Registration Officers and other Governmental/ Developmental agencies for expeditious handling of the bank's work.</p> <p>Note: With a view to making optimum use of the technical skill of the agricultural / development assistant, normally he may not be entrusted with usual clerical work, but where necessary he may be asked to do the clerical work.</p>
Computer Operator 'A'	Computer Operator will perform all duties and functions of clerical cadre, either online or (without passing manually, which does not involve any passing powers) or supervisory function of an officer of the bank. He will, wherever and whenever required, function as a single window operator where he will also receive and pay cash.
Computer Operator 'B' (with passing-(withpassing powers)	<p>In addition to the duties of Computer Operator 'A', their duties will include</p> <p>a) Passing and cash payment of all cheques withdrawal forms bankers' cheques/gift cheques, etc. upto and including Rs.20,000/-</p> <p>b) Passing independently clearing and transfer cheques, vouchers, etc. (whether credits or debits) upto and including Rs.25,000/-</p> <p>c) Receipts of cash and issuance of pre-signed drafts / gift cheques / travellers' cheques / pay orders / bank orders, etc. upto and including Rs.25,000/-</p>

Notes:- (i) In respect of the above special pay carrying posts in clerical cadre - Countersigning would mean signing in a manner whereby the primary responsibility for ensuring that all the formalities are complete rests with the other signatory.

Checking/verifying would mean verifying that the instrument / material checked is in order in all respects and also includes verification of signature irrespective of the amount of the instrument and authenticating the same on the instrument / material, initialling the relative entries in the respective books of accounts, manually and/or on line.

Passing includes verification of signatures and scrutiny as to the correctness of endorsement on and other particulars of such instruments. It will also include checking and authenticating the relative entries in the respective books of accounts / ledgers / computer sheets and/or on line.

(ii) Henceforth, selection of staff for being entrusted with special pay carrying posts shall be on the basis of their suitability for the specialised function, norms for which shall be decided at the bank level.

Thus, from the Memorandum of Settlement with regards to special pay and from the Schedule attached there to and discussed above prima facie prove special pay is paid only to those clerical staff who are assigned with special or additional duty as described in schedule III and at the rate described in Schedule II and not paid universally to all clerical staff of the bank. In case a staff who was attached to a special post with special allowance is divested of the function of the special post and he /she is not entrusted with that post, then automatically such clerk is not entitled to any special allowance. The bank has been given power to modify from time to time special pay carrying posts also.

Schedule-III specifically provides that the Special Pay duties do not include routine duties of the cadre (clerical/ subordinate) which a workman normally perform, but refers to those performed in addition to the routine duties and which entitled a workman to a special pay on the terms and conditions provided in Chapter-V of the first bipartite settlement. It further enumerates those duties which shall form part of the normal duties of a Clerk and will not consider to be a special additional duties. It further provides the selection of staff for being entrusted with special pay carrying post shall be decided by the bank and on the basis of their suitability for the specialised function.

Further, the Memorandum of Settlement dated 2nd June, 2005 which was given effect from 01-11-2002, is silent on the point that a clerk who was getting special pay on being assigned with special duties or additional duties at their earlier place of posting would continue to draw special pay in their new place of posting even if the post to which they are transferred are not special pay carrying post. It is unheard that a bank clerk assigned with the duty of a Cashier or a senior Cashier or with a post attached with special pay will be entitled to draw the special pay even after his promotion or on being transferred to some other posts which do not carry any special allowance. The demand raised by the Union for continuity of special allowance on transfer against posts which do not carry any special pay appears to be unreasonable and illegal.

Therefore, this Tribunal does not find any illegality in discontinuing or freezing the permanent allowance (special allowance) while giving effect to 10 years rotational transfer to its clerical staff and messengers to the posts which do not carry special pay by the management of the bank. In fact this Tribunal finds disputed order of freezing of special pay being passed by the management in conformity with the terms and conditions regarding special pay contained in Memorandum of Settlement dated 2nd June, 2005. Thus, there is no merit in the present reference and same is dismissed. Accordingly, an award to that effect is passed and Reference No.43 of 2005 is disposed of.

Justice K. D. BHUTIA Presiding Officer

नई दिल्ली, 10 अप्रैल, 2024

का.आ. 697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गैरिसन इंजीनियर उपयोगिता के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 1 चंडीगढ़- के पंचाट (89/2013) प्रकाशित करती है।

[सं. एल-12025/01/2024-आईआर(बी-1)-149]

सलोनी, उप निदेशक

New Delhi, the 10th April, 2024

S.O. 697.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 89/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-I* as shown in the Annexure, in the industrial dispute between the management of Garrison Engineer Utility and their workmen.

[No. L-12025/01/2024- IR(B-I)-149]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-ICHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer-cum-Link Officer.

ID No. 89/2013

Registered On:-12.08.2013

Sh. Karamjit Singh, S/o Sh. Mohan Singh, R/o Gali No.10/12, Guru Gobind Singh Nagar, Bathinda.

.....Workman

Versus

Garrison Engineer Utility, Bhatinda Cantt.

..... Management

AWARD

Passed On:-21.02.2024

1. The workman Karamjit Singh has directly filed the present claim petition under Section under Section 2-A of the Industrial Disputes Act, 1947 (hereinafter called the Act), with a prayer to reinstate him in service with all consequential benefits.

2. The brief facts for deciding this claim petition as per the claim of the workman is that the workman worked as Wireman on daily wages under respondent-department from 20.03.1985 to 03.01.1987 and the workman had completed more than 240 days in a calendar year of his services. The services of the workman were terminated in 1987 along with hundreds of other mazdoors in the MES at various places. Aggrieved by the illegal termination of their services and in violation of the provisions of Industrial Disputes Act, 1947 some of the daily wagers/Mazdoor approached the Central Administrative Tribunal, Chandigarh Bench, Jodhpur Bench respectively. Those who approached the CAT had not even completed 240 days of service, however some of them though completed more than 240 days. The judgment in the case of O.A. No.60 of 1987 was rendered by the CAT Chandigarh Bench in the case of Harmesh Lal Vsrsus Union of India and others. The respondent-department went in appeal before the Supreme Court against the judgment of the CAT and the Hon'ble Supreme Court passed the following order in the S.L.P. *"The appeals are heard. Having regard to the facts and circumstances of these cases, we feel that the order of the Tribunal should be modified by directing the appellants to reinstate the workmen concerned in the posts held by them before the retrenchment without any backwages within one month from today. The services of those who satisfy the prescribed qualifications according to the post in which they are reinstated in the post in which they are reinstated. The appeal is accordingly disposed of."* The case of the workman is squarely covered by the judgment rendered to hereinbefore and the workman is entitled to be reinstatement in service as Wireman without back wages as has been held by the Courts. The similar situated persons namely Shri Ashok Kumar, Triyogi Pandit and Narinder Singh had filed their respective case before the Hon'ble Labour Court at Chandigarh against The Garrison Engineer, M.E.S. Bhatinda. The case of the workman is squarely covered by these awards. The workman approached several times for his reinstatement with the management and filed numerous representations but the claim of the workman had not been considered by the management. The workman is left with no other alternative remedy for adjudication of his claim but to approach this Hon'ble Forum. The law is well settled now because in not giving similar treatment to similarly placed is violative of Article 14 & 16 of the Constitution of India and the persons who had even not completed 240 days of service have been reinstated in service. It is therefore, respectfully prayed that the claim of the workman may be adjudicated upon in accordance with law the workman be ordered to be reinstated in service as Wireman with all consequential benefits from the date of judgment passed in the similar cases and the workman be given seniority from the date of judgment dated 23.11.1989.

3. Management filed written statement to the claim statement filed by the workman alleging therein that various persons were engaged on daily wages in the year 1985 on muster roll for carrying out seasonal work for specific project. The work assignment to them was thus intermittently as and when the sanction received. The workman has served for different spell of period and has thus not completed 240 days in a calendar year. The workman is bound to prove the authenticity of Annexure W-1 produced by him before the Hon'ble Court. The various workmen were employed on muster roll for carrying out the duties of seasonal character for specific project. After closure of the specific work the services of the workmen employed were no longer required. According to the provision of ID Act, 1947 the decision of appropriate Govt. is final if the establishment in which the workman has served is of seasonal character and the work performed therein was only intermittently. Some of the workmen who were engaged on daily wages filed cases before different Courts. It is a matter of fact that the workman after his alleged termination of services has neither given any representation nor explored any legal remedy before appropriate Court for the last 25 years after alleged termination of his services. The workman kept mum for such a long period. The silence of the workman for such a long period implies that he was no longer in need of employment under the respondent/

management and engaged in some better business. The workman has even not mentioned in the present statement of claim that he remained unemployed after 1987. The workman is claiming his relief on the basis of cases filed by others. It is specifically denied that the case of the workman is covered in the cases referred in the statement of claim. Sh. Triyogi Pandit and Sh. Ashok Kumar have been appointed on 21.11.2011 and 22.12.2011 respectively in terms of award dated 08.10.2008 and 03.09.2010 in ID No.169/2006 and 179/1998. The workman did not rely even a single representation having been given by him against his alleged termination after 1987. He kept mum for long period of 25 years. The inordinate delay has not been explained by the workman. The workman has also not mentioned that he remained unemployed during this period. It is therefore, respectfully prayed that the present statement of claim may kindly be dismissed keeping in view of the submissions made above, with costs in the interest of justice.

4. The workman filed rejoinder to the written statement filed by the management, alleging therein that there is no limitation prescribed in the Industrial Disputes Act, 1947 for raising an industrial dispute. The workman has approached this Hon'ble Court on the basis of parity with the other similarly situated workmen who have been reinstated in service in view of various orders passed by different Courts. The workman has specifically stated in his claim statement that he is not claiming any back wages but only the reinstatement in service. The workman was appointed as a Wireman on daily wages and he worked from 20.03.1985 to 03.01.1987 without any break. The workman had completed 240 days in a calendar year preceedings to his termination. It is specifically denied that the work assigned to the workman was of seasonal nature. It is therefore, respectfully prayed that the claim of the workman may be adjudicated upon in accordance with law and the workman be ordered to be reinstated in services as Wireman with all the consequential benefits from the date of judgment passed in the similar cases and he be given seniority from the date of judgment dated 23.11.1989.

5. Parties were given opportunity to lead evidence.

6. In support of his case, the workman has examined himself as WW1 and filed his affidavit as Ex.W-1 along with documents Ex.W-2 and Ex.W-3 and was cross-examined by the learned AR of management.

7. The management has examined MW1 Major Sandeep Kumar Yadav and cross-examined by the learned AR of workman.

8. I have heard Sh. S.C. Gupta, Ld. AR for the workman and Sh. Anil Kumar Gahlawat, Ld. AR for the management and have gone through the record available on file carefully.

9. While arguing the case, learned AR of workman contended that in this case, workman has already completed 240 days and this fact is clear even from Ex.W-2. Certificate issued by the respondent-management which shows he worked as Wireman from 20.03.1985 to 03.01.1987. The workman was admittedly dismissed on 31.01.1987. Admittedly no notice under Section 25-F of the Act has been issued. Learned AR for the workman further contended that in this case although there is a delay in filing the present claim petition but still the workman is entitled for reinstatement with back wages in view of the Law laid down by the Hon'ble Supreme Court in the case of Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohan Lal, Civil Appeal No.6795 of 2013(arising out of SLP(C)No.11305 of 2006), decided on 16.08.2013.

10. On the other hand, learned AR of management contended that workman has not worked for 240 days in the preceding year prior to 30.01.1987 and as such, he is not entitled for reinstatement with back wages. He further contended that workman was dismissed on 30.01.1987 and he has filed the present case on 12.08.2013 which is hopelessly time barred and as such, no relief can be given to the workman.

11. I have given due consideration to the arguments advanced by the learned counsels of both the parties.

12. In this case, the workman was dismissed on 30.01.1987 and he has filed this case on 12.08.2013 i.e. after about 26 years. In this regard Section 2-A(3) is very relevant, the same is reproduced below:-

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)."

13. As per this Section, the workman has to file his case within 3 years from the date of his alleged termination/dismissal but he has filed this case after 26 years. The case of the workman is covered under Section 2-A(3) of the ID Act, 1947 because the workman has filed this case in the year 2013. The case of the workman is hopelessly time barred as such, it would be futile exercise to hold whether the workman is working for 240 days. The case cited by the learned AR of workman titled as Assistant Engineer, Rajasthan State Agriculture(supra), is also not applicable to the facts and circumstances of the present case.

14. In view of my findings on the above discussed issues as discussed in the preceding paragraphs, the workman is not entitled for any relief.

15. Let copy of this award be sent to Central Government for publication as required under Section 17 of ID Act, 1947.

KAMAL KANT, Presiding Officer